

Master's thesis

NTNU
Norwegian University of
Science and Technology
Faculty of Social Sciences and
Technology Management
Department of Sociology and Political Science

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**Campaign Finance and the effects
of the Supreme Court decision in
*Citizens United v. Federal Election
Commission***

Master's thesis in Political Science

Trondheim, May 2013

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Abstract

In the 2010 U.S. Supreme Court decision in *Citizens United v. Federal Election Commission*, the Court held that political speech of corporations is entitled to the same rights as political speech by individuals. They ruled that restrictions on independent expenditures by corporations and labor unions are unconstitutional on First Amendment grounds. In this thesis I test two hypotheses. First that outside spending in the 2012 Presidential election was abnormally high because of *Citizens United* and second, that the increase in outside spending benefited the Republican Party in the 2012 Ohio House elections. I find that *Citizens United* is the reason for the increase in spending by outside groups, and that this benefited the Republican Party in the 2012 Ohio House elections.

Acknowledgement

I would like to dedicate this Master thesis to my mother, as she has always encouraged me to pursue this Master's Degree. During my time as a student I have many times doubted myself. It was your strong desire to see me succeed that kept me going, and that made giving up way harder than trying. As I type up this acknowledgement I am realizing that I have finally accomplished a goal I had set for myself years ago. During my time here at NTNU, I can honestly say that I have pushed myself to the limit in order reach this goal. I made it!

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Trondheim, May 29th. 2013

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1. Introduction

In 2010, the U.S. Supreme Court made a decision that changed the landscape of campaign financing, as it for the first time in history recognized that the political speech of corporations is entitled to the same constitutional protections as political speech by individuals. For over a century there has been concern over the influence of money in U.S. elections, and yet the Supreme Court recently made two rulings, first in *Citizens United v. FEC* and then later in *Speechnow.org v. FEC*, that completely changed the political landscape in favor of corporate spending. Laws that for a century were there to prevent corporate influence have now vanished, and as a result there are now no limits on how much corporations can spend in U.S. elections. *The New York Times* called the *Citizens United* ruling a “radical decision, which strikes at the heart of democracy” and urged Congress to act immediately to limit the danger of this decision (*The New York Times* 2010). President Obama also criticized the decision in his 2010 State of the Union Address:

Last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests—including foreign corporations—to spend without limit in our elections. I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities. They should be decided by the American people (Obama 2010).

In his dissent to *Citizens United*, Justice Stevens also expressed his concerns, as he wrote “the Courts ruling threatens to undermine the integrity of elected institutions across the nation” (Stevens 2010). The *Citizens United* decision was quickly followed up by *Speechnow.org v. Federal Election Commission*, where the Court decided that outside groups could raise unlimited amounts of money from corporations as well as wealthy individuals.

According to The Center for Responsive Politics, a nonpartisan, independent and nonprofit research group that tracks down money in U.S. elections, the 2012 presidential election has been the most expensive election in history, with an estimated price tag of over \$6 billion. Due to the 2010 changes in the campaign finance laws, we now see a completely different pattern, as Super PACs has evolved and developed a very influential

role in U.S. elections.¹ The creation of the Super PACs, which can spend and raise unlimited money in elections, has led to a serious increase in spending by outside groups. Most of the money is being used on political advertisements, more specifically negative advertisements, especially in the so-called battleground states.² As the creation of Super PACs is a result of both *Citizens United v. FEC* and *Speechnow.org v. FEC*, I will use the term *Citizens United* to refer to both these cases, the *Speechnow.org* case is included within that term.

The Center for Responsible Politics also holds that conservative non-profit corporations have spent \$120 million dollars, without disclosing where the money came from, so called “dark money”. The 2012 election is the first presidential election after *Citizens United* and spending by outside groups was more than \$1 billion. This amount is about triple the amount in 2010. Clearly outside groups are taking advantage of the new laws and are now playing an even bigger role in U.S. elections (Confessore and Bidgood 2012).

Money can influence the political process in two ways: electorally and legislatively. Campaign spenders who pursue an electoral strategy use the money, most of it on media advertisements, to try to convince the electorate to vote for or against the candidate running for office. Thought it is true that the candidate who spends the most money on an election does not always win, having enough money is a necessity to be competitive in modern-day campaigns. The critics of the *Citizens United* ruling feared that the increase in spending, especially by corporations as they are usually stronger financially than unions, would tilt the political playing field so strongly in favor of wealthy players that elections can now routinely be “bought” with enough money. Historically for direct contributions, business interests have outspent labor interests and the fear was that if this unlimited independent spending were unbalanced as well, the candidates aligned with corporate interest would see their electoral chances increase.

One example of wealthy players linked to the Republican Party is the Koch brothers, who also helped organize the Tea Party protests against President Obama in 2009. The Koch industries, the second-largest private company in the United States, with

¹ Super PACs are political actions committees, making independent expenditures only, expressing their

² A battleground state, also called swing state, is a state in which no single candidate or party has overwhelming support in securing that state's electoral college votes.

their biggest industry being petroleum refining, are one of the Republican Party's most reliable donors. In Congress, Republicans on the House Energy and Commerce Committee have been the top recipients of Koch-related contributions for the past two election cycles, according to data compiled by The Center for Responsive Politics. Another example is casino mogul, Sheldon Adelson, who was the Republican's top donor in the 2012 election, donating \$53.1 million dollars. The top Democratic donor was Fred Eychaner, and he contributed \$12.9 million dollars (Parti and Bravender 2012).

In this thesis, I will test two hypotheses. First, if changes in the legal system, made in 2010 concerning campaign finance, are the reason for the large increase in money spent by outside groups in the 2012 Presidential election. An argument against the first hypothesis is that *Wisconsin Right to Life, Inc v. Federal Election Commission* of 2007 could also possibly explain the increase, but the increase from 2010 to 2012 is so severe that it is a reasonable assumption that *Citizens United* is the cause. Second, if the *Citizens United* ruling benefited the Republican candidates.

To measure the effect of *Citizens United* and test my first hypothesis, I will use a time-series design. The first part of this thesis seeks to measure the effect of *Citizens United* with the focus on how it changed the spending by outside groups in U.S. elections. To measure the effect I will use a projected time-line and—based on the outcome data, estimate the counterfactual development. The difference between the outcome and counterfactual represent the hypothesized effect on spending by outside groups as a result of the Supreme Court ruling. After taking into account the different threats of internal validity, I conclude that most of the rise in outside spending is a result of *Citizens United* and the first hypothesis is therefore confirmed. The data that has been used is collected by the Center for Responsive Politics and include the amount of spending by outside groups in the elections 1990-2012.

To test my second hypothesis I will use a case study to investigate the degree to which the case of Ohio fits the expectations generated by Klumpp, Mialon and William in their article “Money Talks: The Impact of Citizens United on State Elections”. This article came out in September 2012 and was published as an Emory Legal Studies Research paper. In the article they test the hypothesis that the *Citizens United* decision gave an electoral boost to Republicans, at the expense of Democrats in the 2010

Congressional election. They found that *Citizens United* has a positive and statistically significant effect on the probability of Republicans winning in state legislative elections. I find that for the Ohio House election in 2010, Republican-won seats increased by 28,3 percentage points, compared to the 11.9 percentage point increase Klumpp et al. (2012) found for all the states with prior bans on independent expenditures. When looking at the 2012 election outcomes, compared to 2010, Republican-won seats increased by 2,8 percentage points, form 2010 to 2012. Overall, more money were spent in favor of the Republican Party, as suggested by Klumpp et al. (20012. With this I conclude that the second hypothesis was also confirmed, that the findings made in Klumpp et al. (2012) can be extended to the 2012 House election in Ohio.

My original plan was to replicate this article and add the data from the 2012 election to see if their findings hold across election cycles. As the data for 2012 was not 100% complete and only available for purchase (\$1200), I chose to conduct a case study on Ohio instead.³ I chose Ohio because it is one of the larger and most important battleground states, and a state where outside money played a huge role in trying to affect the outcomes.

This paper do not seek to explain the role played by Super PACs, but to answer what effect the *Citizens United* decision had on spending by outside groups in U.S. elections, and second to what extent this spending benefitted the Republican candidates in the U.S. House races. This is important, because for a long time there have been concerns about the way money influences U.S. elections, and it has also been assumed that corporate money can lead to corruption.

In the next chapter, I begin with an overview of the historical background of campaign finance and the important Supreme Court decisions leading up to *Citizens United v. FEC* and *Speechnow.org v. FEC*. I then explain the reasoning behind these two decisions. In section 2.3 I describe how Super PACs differs from other campaign finance actors. In the latter part of this chapter, I will discuss three important aspects of the U.S. Constitution concerning campaign finance: freedom of speech, the fear of corruption, and the rights of corporations versus the right of individuals. Previous literature concerning

³ Also, I never heard back from the corresponding author when I asked for their data and do-file in order to replicate their work.

the effects of campaign contributions on election outcomes will also be discussed. The changes to the campaign finance system are fairly recent and much research is yet to be done on the type of contribution at issue in *Citizens United*, which is *independent* of a campaign. In chapter 3, I explain the data I have used, the two methods and designs employed. In chapter 4, the results are presented and discussed. The analysis is divided in two parts, the first part being the time-series in which the increase in outside spending is presented. The second part of the analysis is the fitting case study of Ohio. The discussion is provided in chapter 5, before I conclude in chapter 6.

2. Theory and previous research

In this chapter theory and previous research will be discussed. The chapter is divided into five different sections. In the first section, I will start by presenting the historical background on campaign finance and look closer at the Supreme Court's decisions leading up to *Citizens United v. Federal Election Commission*. This is important in order to get an understanding of the different views concerning campaign finance and how the jurisprudence of the Supreme Court has shifted. In section 2.2 I will describe how the two cases, *Citizens United v. FEC* and *Speechnow.org v FEC*, changed the pattern in campaign finance, by creating Super PACs. How Super PACs differ from other campaign finance actors, will be explained in section 2.3. I will then, in section 2.4, describe three important aspects of the U.S. Constitution when discussing the topic of campaign finance: freedom of speech, the fear of corruption, and the rights of individuals versus the rights of corporations. Lastly, in section 2.5, I will discuss previous research on the effects of campaign contributions.

2.1 Historical background on campaign finance

Since the 1860s there has been a debate, and a concern, about how to limit the influence of corporate money in U.S. elections. The issue has been brought up several times and the Supreme Court has made many crucial decisions concerning the issue. Theodore Roosevelt, in his annual message to Congress on December 5, 1905 stated that "All contributions by corporations to any political committee or any political purpose should be forbidden by law", and with that expressed his concern with the way money can influence elections (cited in Pollman 2009: 54). He said this after a scandal involving life insurance executives who had used corporate funds for self-serving political contributions. As a result of this, and the President's concern, Congress passed the Tillman Act of 1907, a bill that banned corporations from spending money in connection with any federal elections and prohibited corporations from contributing money to influence elections (Pollman 2009). This ban was later extended to public utility holding companies and their subsidiaries in 1935 and then to labor unions in the Taft-Hartley Act in 1947 (Adamany and Agree 1975). Over the coming decades Congress continually strengthened campaign finance law, but a major turning point in the regulation of

political finance did not occur until after the Watergate scandal in 1974, when Congress passed the Federal Election Campaign Act of 1974.

In 1971 Congress passed the Federal Election Campaign Act of 1971, which required comprehensive disclosure of campaign contributions and expenditures. It also imposed limits on spending by media advertising and on expenditures by candidates and their families. The full disclosure provision then revealed campaign financing patterns and revelations about fund raising, in which shocked public officials, as well as citizens and the press. The Watergate scandal, which involved illegal uses of money, with unreported contributions and expenditures, illegal funding sources and financing of criminal activities, also affected public opinion, and Congress responded with reforms in many quarters, often in ways that were unrelated to any specific conduct surrounding the Watergate burglary (Adamany and Agree 1975).

Later, the Federal Election Campaign Act of 1974 passed. The Act imposed extensive limits on campaign fundraising contributions and spending, expanded disclosure requirements (by requiring each candidate to designate a single depository bank through which all transactions would be made), established the presidential public financing program and created the Federal Election Commission. The Federal Election Commission, consisting of the Senate secretary, the House clerk, and six appointed members, was given power to supervise the full disclosure provisions of the law, to investigate reported or apparent violations, to give advisory opinions and to promulgate rules and regulations (Adamany and Agree 1975). The Federal Election Commission has collected contribution reports from every candidate for Congress since 1974 and since 1979 the records have been computerized. They rely on the individual campaigns to provide accurate information about their donors, and there is no real enforcement (Keiser 2010).

With the Federal Election Campaign Amendments of 1974, Congress attempted to establish a comprehensive system of regulation and enforcement with caps on individual contributions to candidates, contributions to candidates through political action committees, and total campaign expenditures by individuals and groups that were relative to a clearly identified candidate. However, it did not take long before the constitutionality of the Federal Election Campaign Amendments was challenged. An earlier challenge

began during the Watergate era, in 1976, with the important *Buckley v. Valeo* decision. The Supreme Court's decision in this case, and its views on limits on campaign financing, has been very essential in subsequent decisions on the issue.

Buckley v. Valeo was a landmark decision, which upheld the Federal Election Campaign Act's contribution limits, disclosure requirements, and the presidential public financing program, arguing that these three regulations were needed to prevent corruption or the appearance of corruption from undermining the integrity of American democracy. The Court argued that contributions to a candidate could be limited because a large contribution could raise the danger "of a political quid pro quo" and that "public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions" (Supreme Court 1976), would undermine the confidence in the political system. The term "quid pro quo" is Latin, meaning "something for something", and when spoken of in politics it refers to the use of political office for personal benefit. In other words, it refers to something that is given or taken in return for something else, so the court argued that a large contribution to a candidate could be limited because of the danger of political favors being given to the donors as a result of their donation. The Court argued that contributions from organizations to candidates, and the expenditures that such organizations coordinate with the candidates they support, could also be limited to prevent circumvention of the limit on direct contributions to candidates (Briffault 2012).

As the Court held that campaign contributions could be limited to prevent corruption or the appearance of corruption, the controversial part of this decision is that it also struck down the expenditure limits from the Federal Election Campaign Act. The Court argued that limits on spending could not be justified by those same interests due to a lack of evidence that *independent* spending could corrupt candidates. The Court stated that "the absence of prearrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate" (Supreme Court 1976). The Court rejected an equality rationale for limits, holding that the concept that some voices could be limited to enhance the voice of others to be "wholly foreign" to the First Amendment. The Court

held that limits on the amount of contributions only “marginally” restricted First Amendment rights, which are to be judged under lower, “exacting scrutiny”, but spending limits were subject to strict scrutiny because they limited speech directly. For a long time, giving money to political campaigns had been a customary way of expressing political preferences and with that participating in the free discussion of governmental affairs. In *Buckley v. Valeo* the Court observed that “a major purpose of the First Amendment was to protect the free discussion of governmental affairs” and it also asserted that contribution and expenditure limitations “operate in an area of the most fundamental First Amendment activities” (Supreme Court 1976). With equality not being a permissible justification for limiting independent spending, and as the anti-corruption concerns that justified limits on contributions were not available to support limits on independent spending, *Buckley* held that independent spending could not be subject to limits (Briffault 2012). *Buckley* upheld the FECA’s limit on individual donations to candidates, its limits on donations by political committees to candidates, and its aggregate limit on all contributions an individual can make to candidates and political committees per year. However, it did not specifically address the \$5000-per-year cap on individual donations to political committees, and it also left open whether a limit could be imposed on donations to committees that are not parties or conduits (but make only independent expenditures).

Since *Buckley v. Valeo* there have been many cases concerning this issue, and the Court’s campaign finance jurisprudence has shifted, along with the Court’s personnel. Several other Supreme Court decisions touched on the question as to whether a limit could be imposed on donations to committees that are not parties or conduits but make only independent expenditures. However, the Court had not formally overturned any of its campaign finance precedents until the *Citizens United* decision of January 2010, in which the argument made in *Buckley*, that independent spending could not corrupt, was the main argument.

Five years after *Buckley*, in 1981, in *California Medical Ass’n v. Federal Election Commission*, the Court upheld the application of the FECA’s limits on contributions to a political committee in a case involving donations by a trade association to its own PAC. The Court emphasized that the limit on donations to political committees prevented

circumvention of the limit on direct contributions to candidates (Briffault 2012). A year later, *Citizens Against Rent Control V. City of Berkeley* occurred, in which the Court invalidated a municipal ordinance capping contributions to committees formed to support or oppose ballot propositions. Previously, the Court had found that ballot-propositions elections do not pose any danger to corruption, as they do not involve the election of a candidate. Therefore, spending in support for, or opposition to, ballot questions could not be limited. As a result, the Court in *Citizens Against Rent Control V. City of Berkeley* concluded that there was no anti-corruption justification for “the significant restraint on the freedom of expression of groups and those individuals who wish to express their views through committees” (Supreme Court 1981). These decisions together, *California Medical Ass’n v. Federal Election Commission* and *Citizens Against Rent Control V. City of Berkeley*, indicated that there was no constitutional basis for limiting contributions to an organization if neither the contribution itself nor the activity it is funding poses a danger of corruption (Briffault 2012).

In 1978, in *First National Bank of Boston v. Bellotti*, widely known as the “corporate speech case”, the Court followed *Buckley’s* rejection of individual spending limits in candidate elections and struck down limits on spending by corporations in ballot measure elections. The Court invalidated a law from Massachusetts that prohibited banks and business corporations from making expenditures to influence the vote on referendum proposals that did not initially affect their business, property or assets (BeViert 1985). The Court took an expansive view of corporate free speech rights, but it added an important footnote, footnote 26, stating that “Congress might well be able to demonstrate that the existence of a danger of real or apparent corruption in independent expenditures by corporations in ballot measure elections” (Supreme Court 1978). The footnote also stood in tension to what the Court had stated in *Buckley*, that independent spending by individuals couldn’t corrupt candidates because of the absence of the possibility of a quid pro quo.

The Court was first confronted with the question of corporate spending limits in 1986, in the case of *Federal Election Commission v. Massachusetts Citizens for Life, Inc.* The Federal Election Campaign Act of 1974 had prohibited corporations from using treasury funds to make any expenditure in connection with any federal election, and

required that any expenditure for such purpose to be financed by voluntary contributions to a separate segregated fund. A nonprofit ideological non-stock corporation had published a newsletter, exhorting readers to vote “pro-life” in the upcoming primary elections in Massachusetts. It had listed the candidates for each state and federal office in every voting district, and identified each one as either supporting or opposing the corporation’s views. The Federal Election Commission filed a complaint alleging that this violated the Federal Election Campaign Act, as they claimed it represented an expenditure of funds from a corporate treasury to distribute to the general public a campaign flyer on behalf of certain political candidates. The Court held in this case that nonprofit, ideological corporations that do not take corporate or labor union money couldn’t be limited in spending their treasury funds in candidate elections (Supreme Court 1986).

It was not until 1990, in *Austin v. Michigan Chamber of Commerce*, that the Court more directly addressed the question left open by *Bellotti’s* footnote and upheld electoral spending limits on for-profit corporations in candidate elections. The Michigan State Chamber of Commerce is a nonprofit corporation, whose bylaws set forth both political and nonpolitical purposes. The Michigan Campaign Finance Act prohibits corporations, excluding media corporations, from using its general treasury funds for independent expenditures in connection with state candidate elections. The Chamber wished to use their general treasury funds to purchase a local newspaper advertisement in support of a specific candidate for state office and brought suit in the Federal District Court arguing that the expenditure restrictions are unconstitutional under the First and Fourteenth Amendments. The Court ruled that the law did not violate the First Amendment and that the requirements were justified by a state interest (i.e. to prevent corruption or the appearance of corruption) and it also held that the equal protection clause of the Fourteenth Amendment was not violated. The Court did not address *Bellotti’s* suggestion that corporate limits might be justified to prevent corruption of candidates.

The Court instead held that the law was justified to prevent:

a different type of corruption in the political arena: the corrosive and distorting effects of immense aggregation of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas (Supreme Court 1990).

The Court's emphasis on preventing "distortion" of the electoral process through large corporate spending suggests that the Court in fact was espousing an equal rationale, which it had rejected with respect to individuals in *Buckley* (Hasen 2011). In 2003, in *Federal Election Commission v. Beaumont*, the Court retreated even further from *Bellotti* and held that corporate contributions were furthest from the core of political expressions. They argued that a corporation's First Amendment speech and association interests are derived largely from those of their members and of the public in receiving information (Supreme Court 2003).

2.1.1 Bipartisan Campaign Reform Act of 2002

When Congress passed the Bipartisan Campaign Reform Act of 2002, popularly known as "McCain-Feingold", the latest struggle over corporate spending limits began. The law, sponsored by Senators John McCain (R-Ariz.) and Russell Feingold (D-Wis.) and Representatives Christopher Shays (R-Conn.) and Marty Meehan (D-Mass.), was the culmination of seven years' worth of legislative fighting to close gaping loopholes in the federal campaign finance law. Many regarded the Act as the most significant campaign finance legislation passed by Congress since the 1974 amendments to the Federal Election Campaign Act. The Bipartisan Campaign Reform Act addressed a broad range of campaign finance issues, including fundraising on federal property, contributions by foreign nationals, modification of the contribution limits for candidates facing high-spending self-funded opponents, donations to the President inauguration committee, electronic filing, Internet access to campaign disclosure reports, and penalties for the violation of campaign finance laws.

The primary purpose of the law, however, was to preserve the integrity of the existing contribution limits in federal campaigns. Many had rendered these limits as

meaningless over the last decade. The legislation did not expand on the 1974 reforms, but instead its intention was to restore them by regulating the two mechanism that had developed, so-called “soft money” and “issue advocacy”, which had become an enormous part of many federal campaigns (Krasno and Goldstein 2002). The federal campaign finance law had prohibited contributions from corporate and union treasuries and had limited the size of contributions to \$1,000 per individual, per election. In reality, however, corporations, unions and wealthy individuals pumped about \$500 million in “soft money” into federal elections in the 2000 election cycle, on top of the legal campaign funds raised within the contributions and source limitations (Holman & Claybrook 2004). Soft money consisted of donations by wealthy individuals that were much greater than the dollar limitations applicable to individual donations to candidates and contributions by corporations and unions, despite the longstanding ban on corporate and union donations to federal candidates. The donations did not go to specific candidates, or to parties for direct support of specific candidates, but they were instead given to pay for party activities that aided candidates only indirectly, such as voter registration and get-out-the-vote drives, generic party advertising, or campaign ads that did not expressly advocate the election or defeat of clearly identified federal candidates (Briffault 2012).

In the 2002 election cycle, national and congressional party committees broke all previous records in soft money fundraising. Congress had, in the late 1970s, amended the Federal Election Campaign Act to allow national parties to finance some party-building activities with “soft money”, money that in federal elections would otherwise be illegal, such as direct corporate or union contributions or contributions in excess of legal limits. This type of activity was seen as a potential source of revenues to bolster non-electioneering activities, and to place parties on par with the rising campaign activity of independent groups. Congress feared that the campaign finance regulations disadvantaged political parties in relation to outside independent groups, who could spend unlimited treasury funds for issue-advocacy ads. Congress therefore sought to strengthen the parties by permitting them to receive and spend those same corporate and union treasury funds for party-building activities. The national and state parties would make direct appeals to wealthy individuals, corporations and unions for soft money

contributions to the parties prior to the implementations of the Bipartisan Campaign Reform Act of 2002, and research has shown that the soft money was rarely used for its intended get-out-the-vote and party-building purposes (Holman and Claybrook 2004).

The regulation of soft money was at the heart of the Act, and it included several provisions designed to end the use of nonfederal or “soft money” for activity affecting federal elections. One of the key pillars was to implement a ban on soft money fundraising and spending by candidates and parties in federal elections and with that the act sharply curtailed the role of soft money in federal elections. As part of a congressional compromise, however, entities were allowed to contribute up to \$10,000 in soft money to each state and local party organization, if permitted by state law, that could be spent on voter mobilization activity in federal elections.

The second key pillar of the Act was a redefinition of campaign ads to include broadcast ads that mention a candidate, target the candidate’s district and air within thirty days of a primary election and sixty days of a general election. The act’s “electioneering communications” provision was one of the most significant provisions. Electioneering communications are television or radio advertisements that feature a candidate for federal election; they are capable of reaching 50 000 people in the relevant electorate 30 days before a primary or 60 days before a general election. Under paragraph 201 in the Act, anyone making electioneering communications over a certain dollar threshold must disclose contributions funding the ads and spending related to the ads to the Federal Elections Commission. Also, corporations and unions could not fund such ads from general treasury funds, but had to rely on their PACs (Hasen 2011).

The reason for the Bipartisan Campaign Reform Act change was that the previous test of electioneering, the “magic word” test that was first established in *Buckley*, was considered by Congress to be too broad and the general treasury fund limitation was ineffective. The Court had, in *Buckley*, listed eight phrases that it believed clearly established an election message. These words were “vote for”, “elect”, “support”, “cast your ballot for”, “Smith for Congress”, “vote against”, “defeat” or “reject.” The Court had argued that without these words of express advocacy or something comparable, ads by parties and groups would be viewed as educational rather than electioneering in nature, and would then not be subject to regulation. This standard for distinguishing

between campaign advertisements and issue advertisements became known as the “magic word” test. Those advertisements that expressly advocated the election or defeat of candidates were subject to the source prohibitions, contribution limits and reporting requirements of the Federal Election Campaign Act. Political advertisements that avoided these magic words, but which focused on candidates anyway, were classified as “issue ads” and they were immune from federal campaign finance regulation (Holman and Claybrook 2004). The old definition of issue advocacy comes from a footnote in *Buckley* that limited the FECA’s impact by defining campaign communications as those “expressly advocating” the election or defeat of a specific candidate. The purpose behind the footnote was to protect speech about “issues”, from the financial regulations affecting partisan electioneering (Kranso and Goldstein 2002). In the 1990s, issue ads paid for by corporations, labor unions and wealthy individuals began appearing. These ads appeared to be aimed at influencing federal elections, and spending on such ads skyrocketed in the late 1990s (Hasen 2011).

By the 2000 federal elections, the issue advocacy and soft money loopholes had rendered the regulations of the FECA virtually meaningless. The political parties were raising and spending \$500 million in soft money and it was primarily used to pay for television “issue ads” attacking or promoting federal candidates without using the magic words of express advocacy. Also special interest groups started to broadcast their own wave of electioneering issue ads, without anything more than cursory disclosure requirements such as “Paid by the Good Government Committee” and was placed on the television ads themselves. These ads were campaign ads by any standard, except by the magic word standard established by the Court in *Buckley* when it interpreted the FECA as applicable only to express advocacy communications. However, this became irrelevant in the real world of campaign activity when it came to promoting the election or defeat of federal candidates, and the soft money became a principal source of funds to pay for these campaign ads (Holman and Claybrook 2004).

The Bipartisan Campaign Reform Act of 2002 was a significant step in solving these two important issues concerning soft money contributions from wealthy individuals, corporations and unions to national parties and federal officeholders and the issue ads by capturing the bulk of that type of electioneering by parties and independent

groups under the federal campaign finance law. Then President George W. Bush signed the law into effect on March 27, 2002.

However, it did not take long before the Bipartisan Campaign Reform Act was challenged in court. Eighty-four plaintiffs, filing eleven separate lawsuits, challenged it and all the lawsuits were consolidated into one case, *McConnell v. Federal Election Commission*. The case was named after the lead congressional opponent, and occurred in 2003. The Court, in a 5-4 vote, reaffirmed the conclusion made in *Buckley* that, the prevention of corruption and its appearance constitutes a sufficiently important interest to justify political contribution limits. The Court's conception of the nature of the "corruption" that could justify restriction was also dramatically expanded. The case was a sweeping victory for campaign finance reform and upheld nearly all elements of the Bipartisan Campaign Reform Act.

The Court upheld the important soft money restrictions imposed by the Bipartisan Campaign Reform Act of 2002. The soft money defenders argued that there was no danger of corruption, as there were no direct relationship between the donor and the specific candidate. *McConnell*, however, had found substantial evidence that federal officeholders and party leaders sought soft money even if it was given to party accounts they did not control, and that wealthy individuals, corporations and unions would give soft money for the purpose of securing influence over federal officials. The Court concluded that Congress could reasonably determine that money given to party committees to enable donors to obtain preferential access to officials and with that influence government decision-making could constitute corruption sufficient to justify restriction. The Court also upheld the other key provision of the Bipartisan Campaign Reform Act, the regulation of campaign advertisements disguised as "issue ads". The Court's majority clearly acknowledged that soft money was being used to finance campaign advertisements and not for party-building activities and voter mobilization as intended. The Court also recognized that the free flow of soft money to the national parties was a prescription for corruption, not just the appearance of corruption, and the Court even admonished the Federal Election Commission for letting money in politics get so out of hand (Holman & Claybrook 2004). The Court also upheld *Austin*, in that

corporations and unions were barred from spending from their general treasury funds on certain election-related activities (Supreme Court 2003).

2.1.2 A change of course

Justice Anthony Kennedy, newcomer to the Court in *McConnell*, wrote a dissenting opinion arguing that, under the First Amendment, corporations no less than individuals has an unlimited right to spend money in all elections (Kennedy 2003). To demand that corporations should surrender their First Amendment rights simply because they received benefits from the government, was according to Justice Kennedy “unconstitutional censorship”. This dissent written by the Court’s new member laid the groundwork for the view that would later obtain a majority in *Citizens United*. As mentioned earlier, the Court’s campaign finance jurisprudence has swung, as Court personnel has changed. In 2005, when Chief Justice Roberts and Justice Alito replaced Justice Rehnquist and Justice O’Conner the Court abruptly changed its course and the Court’s spending limit cases shifted dramatically. Many media accounts offered indications of how warmly the business community welcomed the new members. Chief Justice Roberts joined the Court after a highly successful career representing corporate legal interests and Justice Alito had established an extensive record in fifteen years as a federal judge, one so consistently pro-business that a prominent corporate attorney declared, “We’re always happy to see Judge Alito on the panel” (Cited in Kerr 2009: 106).

In late June of 2007, the *Wisconsin Right to Life, Inc v. Federal Election Commission* case made it clear that the Court was now willing to rethink the long-standing campaign finance laws. A majority in that case took the position that paragraph 203 of the Bipartisan Campaign Reform Act was unconstitutional as applied to any corporate spending. Wisconsin Right to Life, Inc is an advocacy organization that accepts contributions from business corporations, and was then not exempt from the electioneering provisions imposed in 2002. In July 2004 the organization began broadcasting advertisements that accused a group of Senators of filibustering to delay and block federal judicial nominees. The ads directed voters to contact Wisconsin Senator Russell Feingold and Herb Kohl to urge them to oppose the filibuster, and the organization was planning to run these ads through August of that year and finance them

from its general treasury funds, rather than with funds from its Political Action Committee. Funding the advertisement from their general treasury funds would violate the electioneering provision established by the Bipartisan Campaign Reform Act, so the organization challenged the regulation on First Amendment grounds as applied to those ads. The District court had first ruled against the organization, reasoning that the *McConnell* holding on electioneering provision did not allow as-applied challenges. The Supreme Court vacated that judgment, holding that *McConnell* did not purport or resolve future as-applied challenges to the electioneering ban. On remand, the District Court ruled the electioneering ban to be unconstitutional as applied to the organizations advertisements. The Federal Election Commission appealed, and in its review, the Supreme Court ruled in favor of Wisconsin Right to Life, Inc. by a 5-4 majority. They concluded that the electioneering provisions were unconstitutional as applied to the advertisements by the organization, as they found that they were not the “functional equivalent” of express advocacy and that “the interest held to justify restricting corporate restricting corporate campaign speech or its functional equivalent do not justify restricting issue advocacy” (Supreme Court 2007). The Court ruled that non-profit groups, as well as corporation and unions, could fund policy-based public messages that aired close to Election Day, and with this the ruling challenged the key provisions that had previously been established in 2002, by the Bipartisan Campaign Reform Act. The Act had prevented corporate and union investment in broadcast messages on television or radio airing close to an election that mentioned or pictured a candidate running for federal office (Franz 2011). The Court held in *Wisconsin* that *McConnell* did not prevent a corporation or union from bringing an as-applied challenge to the Bipartisan Campaign Reform Act on the basis that its ads were not “the functional equivalent of express advocacy” (Supreme Court 2007).

They concluded that that the only corporate- funded advertisements that the Bipartisan Campaign Reform Act could constitutionally ban were those that were the “functional equivalent of express advocacy” (Supreme Court 2007). In making the functionally equivalent determinations one had to consider whether, without regard to context and detailed discovery of the advertisement’s intentions, if an advertisement was

susceptible of “no reasonable interpretation” other than as an advertisement supporting or opposing a candidate for office (Supreme Court 2007).

The result was the “reasonable person” test, in that any broadcast advertising sponsored by outside groups that “a reasonable person” might conclude was principally about policy issues was now exempt from funding regulations (Franz 2010). It essentially eviscerated the Bipartisan Campaign Reform Act provisions and provided a green light for the efforts of outside groups to fund pro-candidate ads close to elections. In that sense, *Wisconsin* was historic (Franz 2010). The new member of the Court, Chief Justice Roberts, established a new test for determining the functional equivalency of express advocacy. It attracted sharp criticism among the other justices and it represented a significant change of course for the Court’s jurisprudence on the issue of corporate advertisements in relation to elections.

The decision was also highly criticized by The Brennan Center for Justice at NYU School of Law, a nonpartisan law and policy institute, arguing that the decision had reopened the floodgates of unlimited special interest money into the federal elections. Michael Waldman, Executive Director of the Brennan Center stated:

As we spend billions to spread democracy around the world, this decision deals a huge setback to democracy here at home. Any adman with a computer mouse and a modicum of creativity will be able to steer millions of dollars of special interest money into campaigns. It will be the Wild West all over again (The Brennan Center for Justice 2007).

As the *Wisconsin* ruling took place in the summer of 2007, the effects of this law were first noticed in the 2008 election. In Table 1, data on spending by outside groups in all the elections from 1990-2008 are presented.

Table 1: Data on spending by outside groups 1990-2008, \$ Millions

Election Year	Independent Expenditures	Electioneering Communications	Communication costs
1990	5	0	1,5
1992	10	0	7,9
1994	4	0	3,9
1996	8	0	7,1
1998	9,4	0	4
2000	27	0	14,4
2002	14,8	0	10
2004	65,8	100	25,1
2006	33	14,7	12,2
2008	147	115,7	23,8

Data made available by The Center of Responsive Politics.⁴

This table indicates that, overall, spending by outside groups increased after *Wisconsin*. Looking at the election prior to *Wisconsin*, the midterm-election in 2006, compared to the election after the ruling, in 2008, the spending by outside groups did in fact increase significantly. Outside groups went from spending \$33 million dollars on independent expenditures in 2006, to \$147 million in 2008. Spending on electioneering communications went up from \$14,7 million in 2006, to \$115,7 in 2008 and communication cost went up from \$12,2 to \$23,8 million.

For most of the U.S. history, there has been an agreement that one needs to limit corporate spending in elections, in a fear that it would lead to corruption. In 1974, Congress attempted to establish a comprehensive system of regulation and enforcement as they passed the Federal Election Campaign Act. The Act imposed extensive limits on campaign fundraising contributions and spending, and expanded disclosure requirements (by requiring each candidate to designate a single depository bank through which all transactions would be made). In 1976, the important decision of *Buckley v. Valeo* occurred and it was the controversial part of this decision that the Supreme Court in 2010 in, *Citizens United*, relied heavily upon. In *Buckley* the Supreme Court held that campaign contributions could be limited to prevent corruption or the appearance of corruption, but at the same time it struck down the *expenditure limits* from the Federal

⁴<http://www.opensecrets.org>

Election Campaign Act. The Court argued that limits on spending could not be justified by those same interests due to a lack of evidence that *independent* spending could corrupt candidates. In the Court's *Austin* decision, in 1990, trade associations were required to use separate, highly regulated PACs if they wanted to influence elections. They were only funded by disclosed money and the Federal Election Commission also limited the amounts. Then, the Bipartisan Reform Act further restricted trade associations, when corporations were prevented from airing so-called electioneering communications within sixty days of an election, and also strengthened loopholes concerning soft money. It was in *Wisconsin*, that the Court's new direction became clear, when it struck down limits on corporate funded issue ads.

2.2 Citizens United and Spechnow.org v. Federal Election Commission

Citizens United, a wealthy nonprofit ideological corporation that accepted some for-profit corporate funding, had in 2008, produced a full-length documentary critical of Hilary Clinton, entitled, *Hilary: The Movie*. Citizens United wished to distribute the movie through a cable television "video-on-demand" service.⁵ They wanted to use their general treasury funds to pay a \$1.2 million dollar fee to a cable television operator consortium so that the documentary could be downloaded for free by the cable subscribers "on demand". The documentary contained no express advocacy but it did contain many negative statements about the candidate, Hilary Clinton, among them a statement saying she was a "European socialist" not fit to be commander in chief (Hasen 2011).

The Federal Election Commission argued that the documentary met the "functional equivalency" test of the *Wisconsin* case. Citizens United filed a suit against the Federal Election Commission under a special jurisdictional provision of the Bipartisan Campaign Reform Act of 2002, and it made a motion for a preliminary injunction to allow it to pay for the on-demand cable broadcast of its documentary. The District court unanimously rejected Citizens United arguments and held that the documentary did satisfy the functional equivalency test established in *Wisconsin* and therefore Citizens United was not entitled to an as-applied exemption.

⁵ Video on demand is a system that allows users to select and watch a video content on demand.

Citizens United then appealed to the Supreme Court, but the Court dismissed the appeal at first and the case then returned to the district court. In the meantime, in the District court, Citizens United had advanced numerous arguments, among them that the Federal Election Commission regulations should not be construed to apply to video-on-demand cable broadcast and also, more broadly, it argued that *Austin* was wrongly decided and that it should be overruled. The case was first argued in March 2009, and the broader significance now became clear. The deputy solicitor general had trouble answering a hypothetical question about the regulation of books containing “the functional equivalent of express advocacy”, and it had many of the Justices at oral argument express alarm that Congress might have the power to ban books on election-related issues. Rather than issue an opinion on the case, the Supreme Court announced a rehearing of the case in September of 2009 and asked for supplemental briefing on the following question:

For the proper disposition of this case, should the Court overrule either or both *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990), and the part of *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003), which address the facial validity of section 203 of the Bipartisan Campaign Reform Act of 2002, 2 U.S.C. § 441b? (Supreme Court 2010).

When the Court reheard arguments in September 2009, it began by rejecting arguments to resolve Citizens United’s complaint against corporate spending limits on statutory grounds or to issue a narrow constitutional ruling. The Court went on to defend its characterization of federal law as a “ban” on corporate political speech, and rejected the argument that the law merely imposed a requirement that corporations use PAC funds rather than its general treasury funds for election-related communications. Having found the law to be a ban on corporate speech, they went on to explain that First Amendment interests were at stake by stating that if the Court were to uphold these restrictions, the Government could repress speech by silencing certain voices at any of the various points in the speech process and stated that the law would have to survive strict scrutiny (Supreme Court 2010).

On the question of whether *Austin* should be overruled it turned to the three arguments made in support of *Austin*: anti-distortion, anticorruption and shareholder protection. The Court strongly and unequivocally rejected anti-distortion as a permissible

governmental interest, as they claimed that the interest could also justify the banning of books and it would produce the dangerous and unacceptable consequence that Congress could ban the political speech of media corporations. On the issue of anticorruption, the Court also rejected the argument that a corporate spending limit could be justified on anticorruption grounds and concluded that independent expenditures, including those made by corporations, does not give rise to corruption or the appearance of corruption. The Court then went on to explain its understanding of the meaning of the term “corruption”, and argued that when the Court in *Buckley* had identified the important governmental interest in preventing corruption, or the appearance of corruption, that was limited to *quid pro quo* corruption.

As mentioned earlier, after the decision in *McConnell*, Justice Kennedy had written a dissent and his dissent was quoted in the Court’s decision here as they argued that just because speakers may have influence over, or access to, elected officials, it does not mean they are corrupt. In a representative democracy, they said, favoritism and influence are unavoidable and also a substantial and legitimate reason to cast a vote or to make a contribution to a candidate. The Court also claimed that the appearance of influence or access would not cause the electorate to lose faith in democracy and that independent spending, which was uncoordinated with the candidate, could not give rise to an appearance of corruption because the additional political speech simply seeks to persuade voters, and it was the voters that had the ultimate influence over elected officials (Supreme Court 2010).

On the issue of shareholder protection, the Court employed the same argument as it did with anti-distortion, that it would allow the government to apply the ban to media corporations and the argument was therefore an impermissible basis to limit corporate spending. The Court also argued that the statute suffered from being under inclusive in serving the shareholder protection interest, because it covered certain media ads in the short period before the election, and then over inclusive because it covered nonprofit and for-profit corporations with single shareholders (Supreme Court 2010).

The Court had rejected all of the potential government interests in *Austin*, constituted an equalization rationale inconsistent with *Buckley*, and also provided a new definition of corruption. The ruling also contradicted *Bellotti’s* rejection of limits on free

speech rights of corporations. The Court overruled *Austin* and part of *McConnell* upholding § 203 of the Bipartisan Campaign Reform Act. Led by Justice Kennedy, the *Citizens United* majority made two significant changes in the law. The majority held that corporations have the same constitutional rights during elections as individuals. In Justice Kennedy's view the government could not "repress speech by silencing certain voices", and *Austin* and other cases had therefore interfered with the "open marketplace" of ideas protected by the First Amendment. Second, the Court held that large corporate independent expenditures supporting a specific candidate simply do not give rise to corruption, or even the appearance of corruption (Supreme Court 2010).

The decision did not disturb prohibitions on corporate contributions to candidates, and it did not address whether the government could regulate contributions to groups that make independent expenditures. Speechnow.org, a group that wanted to raise money to produce advertisements to back candidates who supported the First Amendment sued the Federal Election Commission saying that limits on annual contributions from individuals were unconstitutional. The Federal Election Commission argued that large contributions to groups that made independent expenditures could lead to preferential access for donors and undue influence over stockholders. But according to Chief Judge Sentelle, those arguments "plainly have no merit after *Citizens United*" as the majority in *Citizens United* had held that "independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption"(quoted in Hasen 2011: 596). Chief Judge Sentelle reasoned that, since the expenditures themselves do not corrupt, neither do contributions to groups that make the expenditures (Liptak 2010). These two Court decisions laid the basis for the Super PACs, and made it easier for outside groups to spend large sums of money in U.S. elections.

Since the Supreme Court's decisions in *Citizens United* and *Speechnow.Org*, there has also been other cases concerning the issue, and one of them was *American Traditional Partnership v. Bullock*. Steve Bullock, a Montana Attorney General, had originally led an effort to author an amicus brief in *Citizens United* on behalf of twenty-six Attorneys General that had urged the Supreme Court to rule narrowly on just the federal issues and to either uphold or ignore *Austin*, as it represented the jurisprudential bedrock of many states' regulation on corporate campaign spending (Spencer and Wood

2012). In Montana, they had a law that had forbidden corporate spending as a result of a legacy of corruption. The law dated back to 1912, when “copper kings” and other mining barons largely controlled the state’s politics. The Montana Supreme Court had argued that even after *Citizens United*, the legacy of corruption and other factors unique to Montana justified a ban on spending by corporations regulated by the state.

Only two months after *Citizens United*, two corporations sued Bullock and asked the court to permanently enjoin him and all the county attorneys from enforcing Montana’s corporate independent expenditures ban. Citing *Citizens United*, the trial court declared the state law unconstitutional and concluded that Montana’s law favored some speakers over corporations. One year later, the parties argued their case on appeal before the Supreme Court of Montana. Surprisingly, the Montana Supreme Court reversed the lower court and stated that the case concerned Montana law, Montana elections and had arisen from Montana’s history. The Court then went on by tracing out the history of serious corruption in Montana politics that had been the reason behind the Corrupt Practices Act of 1912 and also honed-in on the negative effects of corporate money in state judicial elections. Two of the justices dissented, as they sympathized with the majority yet felt constrained to follow what they saw as a clear application of a broad United States Supreme Court ruling in *Citizens United*. On June 25, 2012 the United States Supreme Court, without a hearing, reversed Montana’s Supreme Court and simply stated that there could not be any serious doubt that the *Citizens United* ruling applies to Montana state law (Spencer and Wood 2012). Regardless of the fact that Montana’s Supreme Court made it clear that corruption had for a long time been a problem as a result of corporate money in election, the United States Supreme Court still stood firm on their proposition that independent expenditures simply cannot corrupt as a matter of law.

2.3 Super PACs and how does it differ from other campaign finance actors

A Super PAC is a political action committee, registered with the Federal Election Commission, and subject to the federal organizational, registration, reporting and disclosure requirements that apply to other political committees (Briffault 2012). A

Super PAC does not make any contributions to federal candidates, but makes independent expenditures expressly supporting or opposing the candidates for federal office. Independent Expenditures are defined by the Federal Election Commission's website as "an expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party or its agents"(Federal Election Commission 2011). Another way of saying this is that independent expenditures are ads that expressly advocate the election or defeat of specific candidates and are aimed at the electorate as a whole. The term is an old term that formerly applied only to hard-money PACs, but now extends to any group directly advocating for candidates. As the Supreme Court ruled in *Citizens United* that corporations and union may fund independent expenditures with money from their general treasuries, and in *Speechnow.org* that there are no limits on how much they can raise, lots of groups have been taking advantage of this, which has led to the creation of numerous Super PACs.

An ordinary non-Super PAC can make contributions to candidates and engage in independent spending that expressly advocates the election or defeat of a clearly identified candidate for federal office. But a Super PAC can only make independent expenditures and is barred from making direct candidate contributions. In short, the rules limiting contributions to ordinary PACs do not apply to Super PACs. Individual contributions to a PAC, are limited by federal law to \$5000 per year, and corporations and unions cannot donate treasury funds to a PAC. Corporations and unions can, however, create their own PAC, use treasury funds to pay for the PAC's administration, and to solicit individual contributions to the PAC from people affiliated with the corporation or union. For Super PACs there are no restrictions on the size of the donations and no prohibition on the contribution of corporate or union treasury funds. While both PACs and Super PACs can engage in unlimited amounts of independent spending, only Super PACs can fund that unlimited spending by collecting unlimited amounts from individuals, corporations and unions. As a result, a Super PAC has the capacity to raise and spend far more money than a standard PAC (Briffault 2012: 1632).

The Super PACs are related to two other independent spending vehicles that have been more present in recent elections, those being section 527 committees and section 501(c) (4) organizations. These are not political action committees, as defined by the Federal Election Campaign Act, and they therefore do not need to register with the Federal Election Commission and abide by other Federal Election Campaign Act requirements and restrictions as long as they avoid engaging in campaign communications that involve expressly calling for the election or defeat of clearly identified federal candidates. The 527 committees are required by the Internal Revenue Code to publicly disclose donors who give more than \$200, but the disclosure are forced by the Internal Revenue Service, and not the Federal Election Commission.⁶ Just like the Super PACs, the 527 committees are not subject to Federal Election Campaign Act's dollar limits and source restrictions on contributions to Federal Election Commission political action committees, and there are no limits to how much they can spend (Briffault 2012). Section 501(c) (4) organizations are not primarily electoral, but instead they are civic leagues and social welfare organizations, labor unions and trade associations, and chambers of commerce. They can spend without limits on election-related activity, including electioneering communications, as long as electoral spending is less than half of their total spending within a year. They are also required to disclose information to the Internal Revenue Service, but the difference is that this information is not made public. Donors who prefer anonymity can take advantage of this organization's exemption from public disclosure, although donors have already found ways to donate to Super PACs and avoid disclosure (Briffault 2012).

These three types of organizations, Super PACs, section 527 committees and section 501 (c) (4), may now engage in unlimited election-related spending and they can accept contributions to pay for that spending from individuals, corporations and unions without limits. Another aspect of this development is that these groups are, despite the formal legal differences, often closely connected and operate as political networks rather than isolated organizations. One interest group can sponsor a 527, a 501 (c) (4), a Super PAC and an ordinary PAC at the same time. For example, the Super PAC American

⁶ The Internal Revenue Service is the U.S. government agency responsible for tax collection and tax law enforcement.

Crossroads, which supported Mitt Romney, was closely related to its sister organization, Crossroads Global Policy Strategies, which is organized as a 501 (c) (4). (Briffault 2012: 1635).

2.4 Important aspects of the U.S. Constitution in regards to campaign finance

When the Supreme Court decided in *Citizens United* there was major disagreement within the Court, and it was also clear that there was disagreement among the three branches of government. The reason for the deep disagreement is that the topic of campaign financing automatically involves three important aspects of the constitution. Those three aspects are: freedom of speech, the fear of corruption and the rights of individuals versus the rights of corporations. The Court has been forced in many cases, to balance two important interests against each other, the right to political free speech on the one hand and the societal interest of being free from corruption on the other: a fight many would argue may shape the future of the U.S. democracy. Campaign finance reforms have very often been justified merely as a means to prevent corruption. Many participants in the debate about reform also have an even more ambitious desire, namely to bring about systematic political equality through campaign finance regulation (BeVier 1985).

Out of this rises a discussion of the difference between the rights of individuals versus the rights of corporations. These topics are all important in the Constitution and it has been proven that there are many different opinions about the appropriate balance. Many scholars argue that the central challenges are derived from the 1976 decision in *Buckley*, in the sense that the Court defined political spending into a categorical system under which different types of contributions and expenditures would be considered under varying rules. On the one hand, some criticize the decision because it limits regulation of campaign finance to *pro quo corruption* and argues that the narrow definition largely ignores the broader history of efforts to combat corruption and thus drastically hampers efforts to advance democratic principles in decision-making. On the other hand, it has been criticized because it limits any campaign finance at all, by those who condemn virtually all efforts at campaign finance reform. Many go as far as to argue that money

does not truly represent a corrupt force and that those who support laws to prevent any such corruption are not acting in the public interest. Among this school of thought are John Samples, the director of Cato's Center for Representative Government and Bradley A. Smith, an American jurist and legal scholar. They both believe that the main motivation for campaign finance reform is the redistribution of wealth, as if there could be no other reason for opposing domination of the political process by the few over the many, that campaign spending simply does not buy elections and that contributions have very little effect on legislative behavior (Kerr 2009).

As the decision in *Buckley* has been criticized on both sides, many predicted that the decision would fall. It was just a matter of whether another decision would go in the direction of allowing greater government latitude to regulate both spending and contributions, or if it would favor absolute First Amendment protection of both. In *Citizens United*, the Court extended an absolutist vision of the First Amendment that allows corporations to spend unlimited sums independently to support or oppose candidates for office.

2.4.1 Free speech

In a 5-4 decision, the Court ruled in favor of *Citizens United*, based on the First Amendment of the Constitution: freedom of speech. For a long time, there has been "a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide open" (Supreme Court 1964). The First Amendment protects the right to freedom of religion and freedom of expression from government interference, and it specifies that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances" (Bill of Rights 1789). It has also been widely recognized for a long time that protection of political speech lies at the core of the First Amendment's guarantee of freedom of speech. That political speech is entitled to the highest protection afforded by the First Amendment is an easily defended position as political communication has informative and educational aspects, and also effectuates those constitutional procedures providing for democratic rule. Without the protection for

political speech, the information and choices afforded the electorate would be diminished, and political opposition would become risky if not impossible. This would be inconsistent with both the specific electoral procedures the Constitution provides and the general form of government it creates (Winter 1986).

Generally, the Supreme Court's decisions accord political speech great protection, even when that speech involves the expenditure of very large sums of money. Beginning with *Buckley*, the Court has insisted that First Amendment rights are put so much at risk by laws regulating political giving and spending that such laws must undergo the almost fatal process of strict judicial scrutiny (BiVier 1985).

There is not much disagreement that the freedom of speech is very important for a democracy, but many argue that also *equality* is essential for a healthy democracy and therefore urge for some regulation of political financing. The proponents of regulating political financing claim that regulation is needed to equalize the ability to speak on political matters. The reason is that private financing of political speech allows wealthy individuals and interests to drown out everyone else and provides an advantage to the wealthy. There has also been a fundamental inconsistency on the Supreme Court decisions on the equal rationale, as the Court in *Buckley* rejected political equality, while the Court in *Austin* embraced it (before they turned again in *Citizens United* by overruling *Austin*). The equality rationale also overlaps with the anti-corruption rationale, as the ability to speak and spend in elections often also leads to more influence over members of Congress (and with them, the legislative process), as members of Congress would feel beholden to their funders. The Court upheld key portions of the Bipartisan Campaign Reform Act in *McConnell* on the basis of this argument, when they clearly expressed their concern about how big money donors would enjoy disproportionate influence over members of Congress. This too, was overruled in *Citizens United*, when the Court redefined the concept of corruption, as something that consist of an exchange of campaign cash for political favors and rejected the government's concern and argument that the prohibition on corporate expenditures was justified by the concern that they would corrupt the legislative process.

2.4.2 The fear of Corruption

For a very long time there has been a deep concern about how much influence corporations should have over elections and the fear of this leading to corruption. The fear of a corrupted government has existed since the founding of the nation, and is a central part of the U.S. Constitution. After deciding on the importance of a federal constitutional structure, the primary task came to be building a constitution that would limit corruption. At the constitutional convention in Philadelphia, George Mason warned, “if we do not provide against corruption, our government will soon be at end” (cited in Teachout 2009: 348). The topic of corruption was discussed extensively in the public debates over constitutional ratification, and there was near unanimous agreement that corruption was to be avoided, and that its presence in the political system produced a degenerative effect (Teachout 2009: 348).

In the aftermath of *Citizens United* it may seem like the right to political free speech has won over the importance of keeping the government free from corruption. It is also clear, that the current Supreme Court does not have the same obsession, and fear, for corruption as did the framers that wrote the constitution. Even before the Supreme Court decision in *Citizens United* there were many who criticized the role played by outside groups in U.S. elections and also in U.S. politics as a whole with the way that special interest groups can, through their lobby groups, influence Congress.

In 2006, the US’s most far-reaching corruption scandal in recent decades broke out. Jack Abramoff, a Republican lobbyist, was found guilty of trading expensive gifts, meals and trips in exchange for political favors. According to the *Washington Post* (02.04.2009), Al Gore referred to the Abramoff scandal as “but the tip of a giant iceberg that threatens the integrity of the entire legislative branch of government.” The political scandal ended careers of several businessmen, lobbyists and members of Congress, with 21 people being convicted. The lobbyists were convicted of illegally giving gifts and making campaign donations to legislators in return for votes or support of legislation. Among these was former Republican Representative from Ohio Robert. W. Ney; the former president of the Council of Republicans for Environmental Advocacy, Italia Federici; the former vice president of the Council of Republicans for Environmental Advocacy, Robert Jared Carpenter; and former Republican Representative from Texas

and House Majority Leader Tom DeLay (Kravitz 2009). In an interview with *60 Minutes*, Jack Abramoff claims that there is a great deal of corruption in Washington, and that it is still happening today, as the new laws on lobbying are not working as intended (Stahl 2011). The argument that outside interest groups have too large a role in American elections is premised on the notion that such spending is a potentially corrupting influence on the candidate that benefits. It is well known that the Republican Party is largely supported by wealthy individuals and corporations like for example Bank of America, JP Morgan and so forth--corporations with more funds than most labor unions, which more often are likely to support the Democratic Party. Even though the dollars spent tells us nothing about the actual affect on the voters, or the role that interest groups have played in previous elections, many argued that that the Republican Party would benefit from this ruling. Still, the Court ruled in favor of the right to free political speech and corporations can now spend and raise unlimited amounts in elections.

Regardless of the fear of corruption that has always been there since The Tilman Act of 1907, and despite *Buckley*, *Austin* and *McConnell*, the Supreme Court now has decided that money simply does not corrupt; it has made a decision that overrules laws that had been there for a century to prevent corruption. The Court also pointed out in *Buckley*, that large contributions could lead to “public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions” (Supreme Court 1976) and that it would undermine confidence in the political system, and therefore put limits on contributions on individual contributions to candidates, to organizations that make contributions to candidates and expenditures that such organizations coordinate with the candidates they support. The Court in *Buckley* found this crucial to the integrity of democracy, as they feared a decrease in political trust in the system.

In *Citizens United*, the Court did not seem to have the same concern in mind, regardless of the fact that approval rates for Congress were at all-time lows and several other polls showed low political trust among the public. According to a 2010 Pew Research Center survey, just 22 percent of American voters say they can trust the government in Washington almost always or most of the time: amongst the lowest measure in half a century. That number was 70 percent about thirty years ago. According to the American National Election Studies project at the University of Michigan, the

public's perception of elected officials is near historic lows. In 1964, 64 percent of respondents believed that government was run for the benefit of all and 29 percent believed that government was run for the benefit of a few big interests. In 2008, only 29 percent believed government was run for the benefit of all, and 69 percent believed it was run for the benefit of a few big interests. A poll commissioned by Common Cause, Change Congress and Public Campaign, following the Court's decision in *Citizens United*, found that 74 percent of the respondents agreed that special interest have too much influence, and 79 percent also agreed that members of Congress are "controlled" by the groups and people who finance their campaigns (Lessig 2011: 167).

2.4.3 Rights of corporations versus the rights of individuals

Another topic that is relevant when it comes to campaign financing is the rights of corporations versus the rights of individuals. While the founding fathers had a fundamental concern that individuals should be free to criticize the governments, they also recognized a fundamental difference between individuals and corporations as "We the *people* of the United States" are the first words of the U.S. constitution. When the founders established the principle of free speech in both federal and state constitutions, corporate speech was far from their minds, as there were very few corporations at the founding (Winkler 2007).

In the 1819 landmark decision of *Dartmouth v. Woodward*, Chief Justice John Marshall stated, "a corporation is an artificial being, invisible, intangible, and existing only in contemplation of law"(cited in Winkler 2007: 864). Since the beginning of the nation, this has been the understanding of the corporate form: corporations have been viewed as legally distinct from natural persons, treating them as powerful artificial entities that needed to be carefully regulated to ensure that they did not abuse the special privileges they alone received (Winkler 2007). Today, under current law, corporations have the same constitutional rights as to individuals when it comes to freedom of speech.

It was in *Bellotti* that the Supreme Court established a degree of First Amendment protection specifically for political media spending by corporations. In the years to come it became evident that the movement of "Corporate Speech" was evolving. Many of the

proponents, in an effort to win greater First Amendment protection for corporate political media spending, began to champion such spending with the rhetoric that characterized corporate expenditures to influence political decisions as simply another form of free speech. Government regulation of such expenditures was consistently represented as a threat to the wider society as they argued it was an assault on the core of the First Amendment (Kerr 2009). Justice Rehnquist wrote a dissent in *Bellotti*, where he contended that First Amendment rights are not necessary for business corporations to carry out the economic functions for which they were created in law, and asserted that the First Amendment protects the public interest in a free flow of information among human, and not corporate, (Rehnquist 1978). Justice Rehnquist also pointed out that a corporation would be speaking in an institutional capacity in the political message in question, and would not be expressing the views of the actual individuals who constitute the corporation as employees and investors. He therefore argued that the expression involved had nothing to do with the liberty of a natural person, and with that he made a clear point as to why he believed that it was wrong to extend First Amendment protection to corporations based on individual freedom of conscience.

All these three aspects of the constitution, freedom of speech, the fear of corruption, and the role of individuals versus the right of corporations are very important for the health of democracy. The Supreme Court decision in *Citizens United* was made on First Amendment grounds. They also for the first time in history recognized that the political speech by corporation is entitled to the same constitutional protection as political speech by individuals. Also, they concluded that corruption would not rise from this, because the spending would be disclosed and also happen independently and uncoordinated of the candidates campaigns.

2.5 Previous research

As changes in the campaign finance system are fairly recent, not a lot of research has been done on the effects of these changes. The larger literature and the previous research done on examining the effects of campaign contributions on election outcomes is focused on direct contributions and the consequence of candidate spending on individual election

outcomes-- not on the type of spending that occurred as a result of *Citizens United*, which is *independent* spending. Also, most of what has been done in the aftermath of *Citizens United* is based on the data from the 2010 Congressional election, which was the first election held after the Court's ruling. The change in the law clearly affected election-related spending in 2010. Out of all the spending in the 2010 Congressional election, 72 percent of it was prohibited in 2006. Also, over 42 percent of the money spent was without disclosure, a number that quadrupled since the last mid-term election in 2006. The 2010 mid-term election featured more television advertisements than any previous mid-term election, and outside groups played a critical role in this, sponsoring \$110 million of ads in the final 60 days of the campaign (Franz 2010: 1).

As far as election-related spending is concerned, most scholars and commentators were anticipating that it would increase overall as a result of *Citizens United*, but there were disagreements whether the predicted amount and type of spending warrant caution and/ or a legislative response, and whether spending levels would be above pre-existing trends (Spenser and Wood 2012: 3). Comparing aggregate independent expenditures in 2006 and 2010 in the 18 states that had data available, Spencer and Wood (2012) found that independent spending increased 100 percent in those states with bans on independent expenditures by corporations and labor unions prior to 2010, relative to those states without such bans. In another paper examining the effects of *Citizens United* on independent expenditures, Selkirk suggests that *Citizens United* appears to have been associated with a significant increase in independent expenditures by corporations in U.S. House races (Selkirk 2011).

Franz (2011) also observed that the level of outside spending was abnormally high in the 2010 election, and he concludes that while interest groups were aggressive players in the air war, their impact may not have been as negative or as large as initially predicted. Interest groups in 2010 increased their advertising totals over 2008 by 168 percent in the House races and 44 percent in the Senate races. On the other hand, levels of advertisements increased from other sponsors. While interest groups sponsored a higher portion of the ads in 2010 than in 2008, from 6 to 12 percent, in the 2002 election--before the Bipartisan Campaign Reform Act--interest groups sponsored 17 percent of the pro candidate ads. This large portion sponsored by interest groups, was part of the reason

that the Act was implemented. Franz (2011) concluded, however, that the real effect of *Citizens United* would probably not be seen until 2012 and 2014.

When it comes to the impact of campaign finance on political outcomes, the scholarly consensus is that campaign finance restrictions tend to have minimal or no impact on political outcomes, although robust debate continues to mark journals in the profession (Mann 2003). Ansolabhere (2003) show that direct contributions have little effect on legislator votes in the U.S. House, but this paper does not bear directly on what might happen if corporations were legally permitted to make direct contributions to a candidate's campaign fund or to make independent expenditures, as these were limited by law until 2010. Studying U.S. House races from 1935 to 2009, La Raja and Schaffner (2012) seek to understand the effects of campaign finance laws on electoral and policy outcomes. The study focuses on whether bans on corporate and union political spending generates consequences notably different from an electoral system that lacks such bans. Three key outcomes were observed: partisan control of government, incumbent reelection rates and corporate tax burdens. Using historical data on regulations in 49 American states between 1935 and 2009 they test alternative models for evaluating the impact of corporate and union spending bans put in place during this period. The results indicate that spending bans appear to have limited, if any, effect on these outcomes. It did find a tendency for spending bans to influence re-election rates, but the effects were not large.

Despite the lack of empirical support on the effect of laws that restrain spending, the campaign finance literature provides solid theoretical grounds to predict the behavior of interest groups. First, we know that corporations, and unions to a lesser extent, tend to support incumbents with their campaign contributions (Lowery and Brasher 2004). This suggests that restrictions on the political activity of corporations and unions should benefit challengers who suffer financial disadvantages. Research on political spending should lead to similar conclusions, since these groups, especially corporations, tend to support the incumbents. Restrictions on these groups should then benefit the challenger. Abramowitz (1991 and 2006) documents that incumbent re-election rates are high in U.S. House elections and that this is in large part due to challengers being at a financial disadvantage. Conversely, removing restrictions on spending should favor incumbents. As far as with the partisan behavior of interest groups, corporations tend to hedge their

contribution strategies by giving to members of both parties, a behavior that supports an “insider” strategy of gaining access to policy makers, even though corporate interests tend to align with and support the pro-business Republican Party, while unions tend to pursue an electoral strategy of supporting Democrats, who are more supportive of labor union interests (Herrnson 2008, Francia 2006). If independent spending tends to favor Republican candidates, removing restrictions on independent spending may increase Republican incumbent re-election rates.

In one of the most recent articles that seek to investigate the *Citizens United*'s effect on election outcomes, Klumpp, Mialon and Williams (2012) in their article “Money Talks: The Impact of Citizens United on State Elections”, test the hypothesis that the *Citizens United* decision provides an electoral boost to Republicans, at the expense of Democrats. They examine the question of whether *Citizens United* systematically shifted winning probabilities of Republican and Democratic candidates in state legislative elections in 2010. By utilizing data covering the 2010 elections and five prior election cycles (2000 through 2008) to obtain difference-in-differences they estimated the impact *Citizens United* had in the outcomes of state legislative elections. By analyzing data on 31,080 congressional elections, they found that *Citizens United* did increase the probability of Republican candidates winning by approximately two percentage points, mainly driven by the impact on House elections. They also find that *Citizens United* is associated with an increase of three percentage point in the probability of re-elections for Republican incumbents in House races, and that the increase in Republican candidate's winning odds after *Citizens United* is due to an advantage in independent expenditures backing Republican candidates or causes.

In chapter 4 I will use a case study to see if these findings fit in the Ohio House races. I chose Ohio because it is considered one of the most important battleground states, and it received a lot of attention in the media. As it's a battleground state, a lot of outside spending was spent in Ohio. Also, Ohio had a ban on independent spending prior to *Citizens United* and was thus one of the states that were affected by the ruling. Findings made by Klumpp et al. (2012) should therefore be reflected in Ohio.

Before this, however, chapter 3 introduces the data and methods to be employed in the subsequent empirical analysis.

3. Data and methods

As mentioned before, this thesis aims to answer two hypotheses. First, to measure the effect of *Citizens United*, I will examine whether changes in the campaign finance system made in 2010 are the reason for the increase in outside spending. In the first part of the analysis, I will use a time-series design. This method allows me to describe how one or more variables change over time for one unit. This method is necessary as there are not enough analytical units to conduct a regression analysis. When not using regression, the only way of controlling for that the measured effect is the effect of the treatment rather than history, it becomes crucial to consider the threat of validity. For more on this challenge, see section 4.1.2.

The second hypothesis addresses the question of whether the case of Ohio fits the expectations generated by Klumpp, Mialon and Williams (2012). Here I have chosen to conduct a case study, more specifically a fitting case study. Using a case study for the second part of this analysis allows me to investigate and understand the Ohio elections in more depth. I have chosen to look at the House races in Ohio, because Ohio is one of the largest battleground states, where outside groups spent a lot of money in order to try and affect the outcomes.

It must be mentioned that this paper does not seek to evaluate the impact of interest groups advertisements as a determining factor in winning elections, but rather to measure the effect of the Supreme Court rulings on outside spending in elections, and if the ruling benefited the Republican Party in the 2012 House elections. To evaluate the impact of the interest groups ads is not an easy task, and it is necessary to control for many other factors relevant to predicting election outcomes than whether or not the party that has the most ads in their favor wins or loses. It should however be mentioned that the scholarly literature on this question is very limited and there are only a handful of studies that investigate the impact of interest group-sponsored advertisement and there is no conclusive evidence that emerges from these studies (Franz 2010).

3.1 Data

In this section I present the data sources used to test the two hypotheses. Data for the first hypothesis is collected by The Center for Responsive Politics. Data for the second hypothesis is collected from multiple sources. I also discuss why I chose this particular (case study) approach in testing the claims from the “Money Talk” article.

3.1.1 Data used for the time-series

The data used in the first analysis is collected by The Center for Responsive Politics. The Center for Responsive Politics is a nonpartisan, independent and nonprofit research group, that tracks money in US politics. Their data relies on reports filed by the committees to the Federal Election Commission. The data are also available on the Federal Election Commission’s webpage, but I have chosen to rely on the data from The Center of Responsive Politics because it is sorted out and made available more straightforwardly.⁷

The data collected is from all the elections between 1990 and up to the recent Presidential election in 2012. Spending by outside groups is divided into three categories: 1, “independent expenditures”; 2, “electioneering communications”; and 3, “communication cost”. As mentioned earlier, *independent expenditures* are ads that expressly advocate the election or defeat of specific candidates and are aimed at the electorate as a whole. After *Citizens United* corporations and unions may fund independent expenditures with money from their general treasuries. *Electioneering Communications* are expenditures made for television or radio, airing within 30 days of a primary and 60 days of a general election, that mention or refer to a federal candidate and that are aimed at 50,000 or more members of the electorate of the office the candidate is seeking. Internal *communication costs* are internal political messages generally aimed only at the members of a union or organization, or company executives. These may be

⁷ The Center of Responsive Politics has been celebrated many times from a wide range of organizations, including the National Press Club, Voice of America, Time.com, Forbes Magazine, as well as four Webby Awards. The Center is also regularly cited by news organizations such as the *New York Times*, *Wall Street Journal*, *USA Today*, Fox News, CNN, MSNBS and National Public Radio.

coordinated with the candidates and can be paid for directly from the organization's treasury.

3.1.2 Data used for the case study

In the second part of the analysis, the data was collected by multiple sources. This analysis will test whether the expectations generated by Klumpp et al. (2012) fit the case of Ohio. Data on how much the candidate's campaign raised and how much outside groups spent in the races are also here collected from The Center For Responsive Politics. The Sunlight Foundation has collected data on the undisclosed money that was spent in the elections. The Sunlight Foundation is a non-partisan and nonprofit organization that works for more transparency in U.S. politics. News reports and articles in different newspapers have also been used to get an idea to what role money played in the races.

What I originally hoped to do for the second part of the analysis was to replicate the article written by Klumpp et al. (2012), adding data from the 2012 election, to see if their findings hold across elections cycles. As the changes in the law came into effect the same year as the 2010 congressional election, the Super PACs were sort of in the beginning stages. In the 2012 election it became clear that the Super PACs were way more developed and more organized than in the previous election. In 2012, they were a very big player in the election, especially in the air war. One might assume, as their role grew and also even more money was spent, that the effects in the 2012 election were even larger than the results found by Klumpp et al. (2012).

The reason why I did not undertake a replication of their article is that I was not able to secure the necessary data.⁸ Another important limitation is that, after the 2010 election, some of the districts in Ohio were redrawn. Because of this redistricting that occurred after the 2010 election, it is somewhat inaccurate to compare the House races in 2012 with the previous cycles, as the districts are different. Looking at how much money

⁸ I emailed the corresponding author of the article to ask if I could use their data and do-file, but I never got a response. I also contacted the National Institute on Money in State Politics, which collects campaign finance reports submitted to state disclosure agencies by all state-level candidates in primary and general elections, to get a hold of the necessary data from the 2012 election. Unfortunately, the data for 2012 were not completed yet. Also, I would have to purchase the data, and the total cost would be over \$1200 for all the states. As I still had not heard back from the author about the data and do-file, I chose to conduct a case study instead.

mattered for the results, comparing elections, to get the right picture we would need to have the same sample, which would not have been the case.

According to Klumpp et al. (2012), in the 2010 election, the Republicans benefited from the *Citizens United* ruling as their winning probabilities increased. They then used their power to redistrict Ohio. By looking at Ohio in detail, I could get a sense to as how much this redistricting process benefited the Republicans in the 2012 House races. As Ohio was not the only state whose districts were redrawn, by looking at Ohio, I can also get a sense of what impact it had in all the states where Republicans were in charge of redistricting. In a sense, the way the Republicans redistricted, as a result of the success in 2010, is an indirect effect of the *Citizens United* decision. Without the decision, the Republicans may have never gotten the chance to do so, and the outcome in the 2012 races may have been different. Also, in the data used in Klumpp et al's (2012) analysis, the issue of undisclosed money is not taken into account, nor discussed. I can best address these issues in a case study format.

3.2 Methods

To best answer the two hypotheses presented in this thesis, I will use two different methods. As mentioned earlier, for the first hypothesis (to measure the effect that the *Citizens United* had on outside spending in the election) I will use a time-series design, which is an impact analysis for program evaluation. The time-series design allows us to describe how one or more variables changes over time for one unit, and it can also be considered a quasi-experiment as long as the evaluator has no basis for thinking that the after series might be different from the before series even without the treatment (Mohr 1995: 203). For the second analysis, I will look closely on the House races in Ohio by conducting a case study. This will allow me to get a more detailed picture on the role of money in these House races. Inspired by the findings in the article “Money Talks: The Impact of Citizens United on State Elections” by Klumpp et al. (2012), I will investigate if their findings fit the case of Ohio.

3.2.1 Time-series design

According to Dye (2011), policy evaluation is learning about the consequences of public policy, that is, with “policy impact”, and the impact of a policy is all its effects on real world conditions. Systematic program evaluations involve comparisons designed to estimate what changes in society can be attributed to the program rather than non-program factors, meaning comparing what actually happened to what would have happened if the program had never been implemented (Dye 2011: 328). An estimate of what would have happened without the program can be made by projecting past (preprogram) trends into the post program period. These projections are then compared with what actually happens in the society after the program was implemented, and the difference between the projections based on the preprogram trends and the actual post program data can be attributed to the program itself (Dye 2011: 329). As mentioned earlier I will be using a time-series design, which Dye refers to as “projected trend line versus post program comparison” (Dye 2011: 328). According to Mohr:

The crux of the analysis of the efficiency of a particular treatment or program with respect to a particular outcome dimension of what did appear after implementing the program with that would have appeared had the program not been implemented (Mohr 1995: 4).

The what-would-happen category can never be observed and can never be known for certain, but it is of paramount importance in the assessment of the efficacy of a program and its fundamental inaccessibility. This makes it the central point of all impact analysis designs and a major source of reservations about the validity of evaluative conclusions (Mohr 1995: 4). This element is referred to as the counterfactual, and in Table 3, an estimate of the counterfactual is presented. There are three common methods used for taking account of a trend and characterizing the change in the series. These three methods are regression analysis, visual analysis and ARIMA modeling. The simplest form of regression model for analyzing interrupted time-series data would adopt the standard assumption of ordinary least squares regression. According to Mohr, ordinary least square regression is unlikely to be appropriate for the interrupted time-series design, as for example an impact analysis. The second method is ARIMA modeling. ARIMA stands for autoregressive integrated, moving average. The goal of this method, in the context of

the interrupted time-series design, is the same as that of regression: to establish the trend and get rid of, or account for, autocorrelation. The primary advantage of ARIMA modeling over regression modeling in the context of the interrupted time series design is that it provides a nearly certain means of getting rid of autocorrelation (Mohr 1995: 218).⁹ The results are more likely to be sample specific and the standard error will be biased if there is autocorrelation, it is therefore important to make sure we have an absence of autocorrelation in the analysis.¹⁰ As I have not used OLS or ARIMA modeling, this is not an issue in this analysis. The third method is visual analysis:

Just eyeballing the graph of the raw data; arriving at a subjective conclusion about the existence, magnitude, and nature of the change, if any; and possibly supporting the conclusion by reading off a few numbers directly from the axes of the graph (Mohr 1995: 208).

By visual inspection, one usually obtains quite an immediate and strong impression of a trend just by noting whether the series seems flat or moves generally up or down over time (Mohr 1995: 214). According to Mohr, if there is a moderately large change, it is unlikely that a statistical adjustment for autocorrelation would erase it, and one would then proceed to probe the issue of the cause, whether it be the treatment variable or history (Mohr 1995: 208). The method I have used is visual analysis. I chose to use this instead of the other two other methods because the change was so severe from 2010 to 2012: by visual inspection I can quickly get an impression of the trend. In Table 2, the data show a severe change from 2010 to 2012, and I therefore chose visual analysis as a method to estimate the counterfactual, as recommended by Mohr (1995).

3.2.2 Case study

According to Yin (1993), just as the different scientific methods prevail in the natural sciences, the different social science research methods fill different needs and situations for investigating social science topics. The most suitable method depends in large part on

⁹ Autocorrelation means that the residual of individuals correlates with adjacent individuals and reflects connection among cases.

¹⁰ To find out if the data has (and to what degree it has autocorrelation), a Durbin-Watson test can be used.

the research question presented. For my second analysis I will conduct a case study, in particular a fitting case study, to investigate if the expectations generated by Klumpp et al. (2012) fit the Ohio House races. A fitting case study is used in order to investigate the degree to which a given case fits a general proposition. The design serves to demonstrate the explanatory power of a particular theory by providing descriptive frameworks on existing conceptual schemes, in the sense that a case is chosen as an empirical venue for applying a particular theory (Moses & Knutsen 2007: 133). According to Klumpp, et al. (2012), the *Citizens United* decision benefited the Republicans in the House races, and their chances of winning increased when the ban on independent expenditures was lifted. Looking at Ohio, I will investigate what role money played in the House races, and if the money spent by outside groups benefited the Republican candidates.

Case study, as a research method, is used in many situations to contribute to our knowledge of individual, groups, organizational, social, political and related phenomena. The distinctive need for case studies arises out of the desire to understand complex social phenomena, and the case study method allows investigators to retain the holistic and meaningful characteristic of real-life events (Yin 1994: 4). In his book *Case Study Research*, Yin (1994) provides a twofold definition of case studies:

A case study is an empirical inquiry that investigate a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident... The case study inquiry copes with the technically distinctive situation in which here will be many more variables of interest than data points, and as one result relies on multiple sources of evidence, with data needing to converge in a triangulating fashion, and as another result benefits from the prior development of theoretical propositions to guide data collection and analysis (Yin 1994: 18).

Basically, the case study method is used when one wants to understand real-life phenomenon in depth, and because phenomenon and context are not always distinguishable in real-life situations, the case study relies on multiple sources and is not limited to a specific design. According to Yin (1994), the more the research question seek to explain “how” and “why” some present circumstance works, the more the case study method will be relevant. Also, the method is relevant when the research question requires an extensive and “in-depth” description of some social phenomenon. The advantage with

case studies is that real details and causal mechanisms can be found, not just correlations.

A common critique of case studies is that they provide little basis for scientific generalization. Yin (1994) argues that case studies, like experiments, are generalizable to theoretical propositions and not to populations or universes. In this sense, the case study does not represent a “sample”, and in doing a case study, the goal will be to expand and generalize theories, something Yin refers to as analytic generalization. The goal is not to enumerate frequencies, referred to in Yin, as statistical generalization (Yin 1994: 15). A second critique is that a case study cannot directly address causal relationships, whether a particular “treatment” has been efficacious in producing a particular effect. Still, case studies can offer important evidence to compliment experiments (Yin 1994: 16). Case studies have a distinctive place in evaluation research, and there are at least four different applications. According to Yin (1994), the most important is to explain the presumed causal links in real-life interventions that are too complex for the survey of experimental strategies. A second application is to describe an intervention and the real life context in which it occurred. Third, case studies can illustrate certain topics within an evaluation, again in the descriptive mode. Lastly, the case study strategy may also be used to enlighten those situations in which the interventions being evaluated have no clear, single set of outcomes (Yin 1994: 20).

3.2.2.1 Why Ohio?

I chose the state of Ohio because it is considered to be one of the most important battleground states, and much outside spending was spent there, compared to most of the other states. Also, Ohio had placed a ban on independent spending in 2005. The findings in “Money Talk: The Impact of Citizens United on State Elections” should therefore be reflected in Ohio, as it was one of the states that was affected by the 2010 ruling. In the article, the authors also mention that federal congressional districts were drawn by the state legislatures in over half of the U.S. states, which is the case in Ohio. In these states control of state legislatures can be leveraged into influence in national elections due to so-called “gerrymandering”, meaning redrawing the political districts. In Ohio, after the congressional election several districts were redrawn. The authors mention that an interesting question for further work is whether *Citizens United* had a larger effect on

states in which the legislature is in charge of drawing congressional maps.

I expect to find that outside spending played a big role in the 2012 Ohio congressional elections, that Republican candidates outspent most of their opponents, and that a larger amount of undisclosed money were spent in favor of Republican candidates and in attacking their Democratic opponents. As a result of the redistricting that occurred in Ohio after the 2010 congressional election, I expect that in some races, Republicans increased their winning probabilities even further in 2012.

4. Results

This chapter addresses two main themes. In section 4.1, I will start by showing what effect the Supreme Court rulings in 2010 had on spending by outside groups in the 2012 U.S. election. I will start with commenting on the outcomes, presented in Table 2, and explain the supporting graph as well as the estimation of the counterfactual. Then I go on to present the effects, in Table 3, which lists both the outcome and the counterfactual developments. This section will show that the amount of spending by outside groups rose tremendously as a result of the Supreme Courts decision *Citizens United* and most of the spending was on independent expenditures. After taking into account all the different threats of internal validity, I conclude that while there might be some, the effect of the *Citizens United* and *Speechnow.org* was so dramatic and most of the rise in the spending by outside groups in US elections is a result of the two Supreme Court decisions made in 2010. In Figure 2, the effect of the treatment of presented, as the figure shows both the outcome and the counterfactual.

In the second part of this chapter I will present the results from the case study on Ohio. This section will provide an answer as to what role money played in the Ohio House races, and if it benefitted Republican candidates. I start by taking a closer look at the redistricting of Ohio in section 4.2.1.1, as well as how undisclosed money, often called dark money, was involved in the elections. This is followed by a section where I present the findings made by Klumpp et al. (2012). The Senate elections, as well as the House elections are discussed, along with the possible consequences from the redistricting and also the dark money involved. I find that for the Ohio House election in 2010, Republican-won seats increased by 28,3 percentage points, compared to the 11.9 percentage point increase Klumpp et al. (2012) found for all the states with prior bans. When looking at the 2012 election outcomes, compared to 2010, Republican-won seats increased by 2,8 in percentage points, form 2010 to 2012. Overall, more money were spent in favor of the Republican Party, as suggested by Klumpp et al. (2012). With this I conclude that the second hypothesis was also confirmed, that the findings made in Klumpp et al. (2012) can be extended to the 2012 House election in Ohio.

4.1. Time-series-design analysis

To consider the effect that the Supreme Court rulings in 2010 had on spending by outside groups in the 2012 US election, I employ an effect analysis, more specifically, a time-series design. As mentioned before, this is advantageous because a time-series design allows me to describe how one or more variables changes over time. In taking account of a trend and for characterizing a change in the series, I have chosen the method of visual analysis to estimate the counterfactual. As the change from 2010 to 2012 was so severe, by doing a visual analysis, I can quickly get an impression of the trend. I will first present the results in section 4.1.1, and then discuss the validity of the analysis in section 4.1.2.

4.1.1 Results from the effect evaluation of Citizens United

In 2010, the Supreme Court changed the law concerning campaign finance in favor of corporate spending. This has changed the way corporations spent money in elections. In Table 2, the data used in this first analysis are presented.

Table 2: Data on spending by outside groups 1990-2012, \$ Millions

Election Year	Independent Expenditures	Electioneering Communications	Communication costs	Outcome development
1990	5	0	1,5	6,5
1992	10	0	7,9	17,9
1994	4	0	3,9	7,9
1996	8	0	7,1	15,1
1998	9,4	0	4	13,4
2000	27	0	14,4	41,4
2002	14,8	0	10	24,8
2004	65,8	100	25,1	190,9
2006	33	14,7	12,2	59,9
2008	147	115,7	23,8	286,5
2010	202,8	73,7	12,2	288,7
2012	1066,7	15,8	5,8	1088,3

Note: The number in red shows the effects on independent expenditures. Source: www.Opensecrets.org

The data was first divided into three different ways of spending: 1, “Independent expenditures”; 2, “Electioneering communications”; and 3, “Communications cost”. In

the table the outcome, the actual development, is also presented, which is the total of all the three types of spending. It is the combined actual spending that is of most interest, and this is the indicator I have used to estimate the counterfactual development.

Table 2 shows a dramatic change in spending between 2010, when the law was implemented, and 2012, two years after in the way money were spent in the elections. First, independent expenditures, which are ads that expressly advocate the election or defeat of specific candidates and are aimed at the electorate as a whole, enjoyed an enormous increase from 2010 to 2012. It is not unreasonable to see that as a direct effect of *Citizens United*. As we saw earlier, after *Wisconsin* in 2007, there was also a dramatic increase in spending, especially on independent expenditures and electioneering communications. It is possible that the development in the category independent expenditures is partly a natural development (from the jump that started in 2008). It is also clear from the table that overall sending did in fact jump significantly after *Wisconsin*. It is worth mentioning that from 2010 to 2012, it is the spending on *Independent expenditures* that rises (while the two other categories go down), yet overall spending more than tripled in 2012. As decided in *Citizens United*, corporations could now fund these independent expenditures by their general treasury, and so it is natural that these expenditures have grown. It is from this outcome that the counterfactual was estimated. The estimate of the counterfactual is derived from measurements on the unit over an earlier period of time, as recommended by Mohr (1995: 204).

Figure 1: Spending by outside groups in elections from 1990-2012 on the three categories in millions (US dollars).

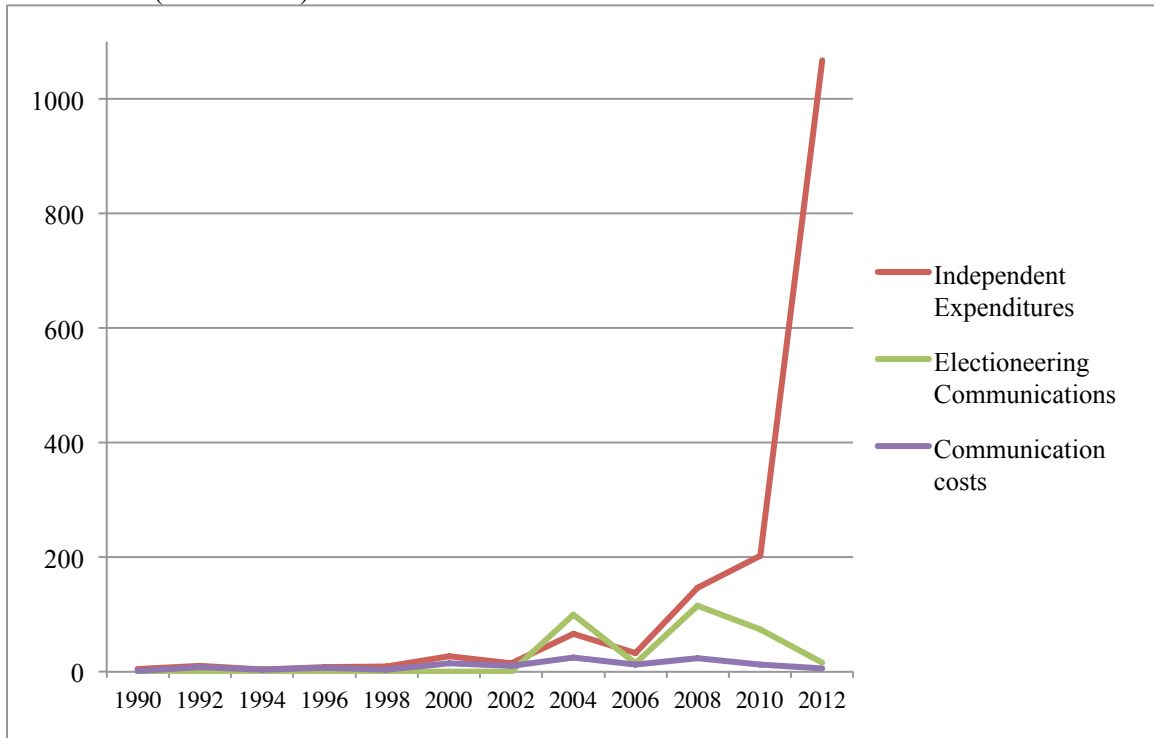


Figure 1 shows a graph of the development in outside spending from 1990 up until 2012. The data is from all the elections, both mid-term and presidential elections, and include the spending done by outside groups in all these elections. This is also shown in a histogram, see appendix, Figure A1.

Figure 1 shows a dramatic change in the spending done by outside groups from previous elections before the Supreme Court rulings in 2010 and the last presidential election. According to the figure, the 2004 election marked a watershed moment in the use of independent expenditures to try and sway voters. Also the election of 2008 showed a significant rise in independent expenditures from the previous presidential election in 2004. As explained earlier, this might be a result of the *Wisconsin* decision, late in 2007, as the Court ruled that non-profit groups, as well as corporations and unions, could fund policy-based public messages that aired close to Election Day.

The 2010 election marks the rise of the Super PACs, which can now raise unlimited sums from corporations, unions and other groups as well as wealthy

individuals. In 2010 we see that electioneering communications spending went down from the 2008 election, and there were a rise in independent expenditures. One might have expected more of a rise, but as the *Speechnow.org* was decided in late March and the midterm election were early in November, the effects of the Court's decision somewhat unclear due to the fact that the Super PACs was not as developed and organized as they were in the 2012 election. Also, when comparing the 2010 election with the previous midterm election in 2006, we see a significant rise in the spending both in independent expenditures and in electioneering communications. In the 2012 election we see spending by outside groups rise tremendously, and nearly all of the spending is done in the form of independent expenditures.

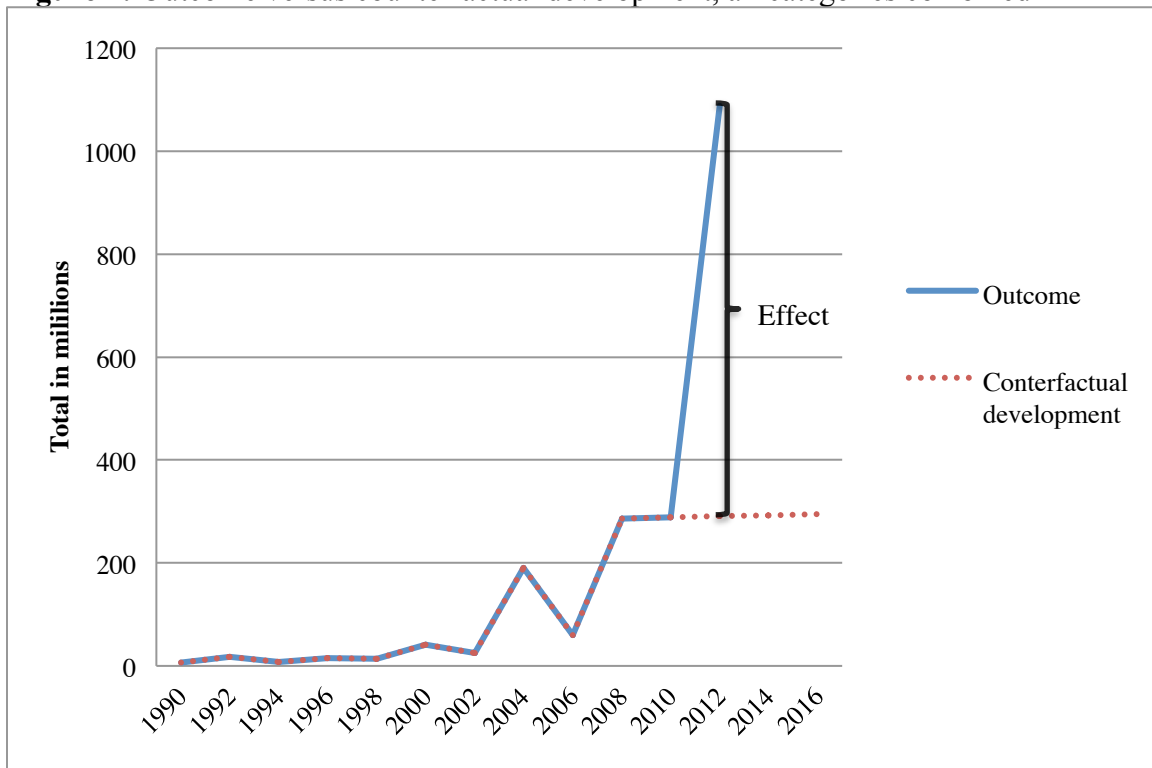
In Table 2, I see that outside spending rose from \$286,5 to \$288,7 million dollars between 2008 and 2010. In the absence of the *Citizens United* ruling, I have estimated that the counterfactual for 2012 would be \$291 million. As mentioned earlier, the counterfactual is impossible to know for certain, but the best way to estimate this is with the trend from the previous years. Table 3 below, shows the data used to establish the outcome line and counterfactual, and in Figure 2 the outcome line and the counterfactual are presented in a way that allows us to see the effect of the treatment (the *Citizens United* decision).

Table 3: Outcome line and counterfactual, \$ Million

Election Year	Outcome line	Counterfactual
1990	6,5	6,5
1992	17,9	17,9
1994	7,9	7,9
1996	15,1	15,1
1998	13,4	13,4
2000	41,4	41,4
2002	24,8	24,8
2004	190,9	190,9
2006	59,9	59,9
2008	286,5	286,5
2010	288,7	288,7
2012	1088,3	291 ^a
2014	-	293 ^a
2016	-	295 ^a

^a Counterfactual development has been estimated on basis of the development the two previous elections 2008 and 2010

Figure 2: Outcome versus counterfactual development, all categories combined



In Figure 2, the effect of the treatment is presented, as the figure shows both the outcome and the counterfactual. The red line in the graph represents the counterfactual and the blue is the outcome: what actually happened. As mentioned previously the counterfactual was estimated using the method of visual analysis. We can see from both the data presented in Table 1, and the graph in Figure 2, that there was a significant change from 2010 to 2012 and the difference between the outcome and counterfactual is dramatic. The difference between the outcome line, and the counterfactual, is the *effect* of the treatment in spending by outside groups. From the data we see that the outcome in 2012 is \$1,088,300. The counterfactual, estimated on the previous trend, for the 2012 election is \$291 million. To find the difference and the effect we subtract the outcome, Y , from the counterfactual, X , and in this case it would then be: $Y-X=1088,3-291$ or \$797,300,000. This represents a tremendous increase in spending by outside groups.

4.1.2 Validity

As mentioned earlier, in the absence of regression, the only technique to ensure that the effect estimated, is the effect of the treatment (rather than history), it become crucial to consider the threat of validity. For this type of design there are some threats to validity, and it is the internal threat of history that is most relevant here. Any threat to internal validity means a threat to the validity of an inference or conclusion about a program impact based on a certain design (Mohr 1995: 61). There are three threats to internal validity: selection, contamination and history. As mentioned above, history is the most relevant for this design as there is a before measure, but no comparison group. Still, after incorporating an estimate of the counterfactual development, the study may still be quite vulnerable to threats from internal validity. The general threat of history is that threat, or possibility, that something else besides the treatment or policy, accounts for all or part of an observed change over time (Mohr 1995: 67). The threat to history may be divided into several subcategories: external events, testing, maturation, regression and attrition.

External events refer to just one kind of history, the threat that some outside occurrence, not a property of the program, has intervened and then affected the outcome scores. In 2008 we see an increase in the spending, and I mentioned in the analysis that I assume this to be a result of *Wisconsin*. The case occurred late in 2007, when the Court

challenged the Bipartisan Campaign Reform Act of 2002 and ruled that non-profit groups, as well as corporation and unions, could fund policy-based public messages that aired close to Election Day. In a sense *Wisconsin* marks the beginning of the new way of viewing campaign finance, and the first severe jump in outside spending begins here. After the Court's decision in *Wisconsin*, it may seem like the ruling in *Citizens United* was the "natural" next step, as it was obvious that the Court had changed its views on campaign financing. It may therefore be argued that the threat of maturation, is relevant here, but I still chose to view the case of *Wisconsin* as an external event and that the high spending in 2012 is also partly a result of *Wisconsin*.

A second subcategory to the threat of history is the threat of maturation, which refers to a null-case difference between before and after that result purely from the process of aging or natural development (Mohr 1995: 70). The change from the pretest to the posttest could be due in whole by a maturation process. As mentioned earlier, the 2012 election was the most expensive election in history. There has been an increase in overall money that is being spent in the elections. A lot of this has to do with technology, as the use of the Internet in elections has changed campaign financing. One could assume that since the total amount of money spent in elections has risen, it is also natural that money spent by outside groups increases. This may be partly the case, but I argue that the change in spending by outside groups after the treatment is too severe for this to be a threat to validity.

Closely related to maturation is the threat of regression, which involves cyclical or episodic change. For many phenomena, subjects scoring toward an extreme are likely to drift naturally toward a less extreme norm over time (Mohr 1995: 71). There has only been one midterm election and one Presidential election, given the *Citizens United* decision. As the spending increased tremendously, and especially on independent expenditures, it may be likely that it will naturally drift towards a less extreme norm over time. Especially, as the Republican presidential candidate Mitt Romney lost (most of the spending came from conservative groups), the outside groups might reconsider the amount they spend on independent expenditures and look into other ways to spend their money. We might see a change in how they spend their money, but outside groups still have the ability to raise and spend money does not change. The last form of history to be

considered is attrition, and it concerns the possibility that subjects may leave the group between time 1 and time 2, more precisely, that the *Y* scores of some subject may become unavailable or irrelevant (Mohr 1995: 72). This is not a threat in my analysis, as I do not have a comparison group in this design.

According to Mohr, the confidence in our presumption that the treatment rather than history was the cause of some observed change, should be increased if we see the kinds of patterns in the outcome measure, that history has tended to produce in the past, and observe that the change after the treatment is a noticeable departure from those patterns (Mohr 1995: 203). My data show that a significant departure from the patterns that history has tended to produce in previous years. I conclude that the external event of *Wisconsin* has also affected the rise in spending by outside groups in elections to some degree. Also, as there has been an increase in overall money that is being spent in the elections, as a result of the way that technology is being used in elections, and some of the rise in the spending by outside groups may also be the result of a natural development. The threat of regression was also considered, as it may be that the outside groups chose to spend their money differently in the upcoming elections. History, in its various forms, still remains as a threat to internal validity, but I conclude that the threat is not so severe, as the change in spending from 2010 and 2012 is so radical.

4.2 Case study analysis

By conducting a case study on Ohio, I can get a detailed overview over the different races that occurred in the 2012 House elections. The goal of this case study is to see whether Klumpp et al.'s (2012) findings can be extended to the 2012 election results: i.e., that the *Citizens United* decision benefited the Republican candidates in the House elections.

I will begin by considering two important subjects that I believe could have had an effect on election the outcomes. The first subject is the redistricting process that occurred in Ohio, and a handful of other states, in the aftermath of the 2010 election. After the Republican's success in 2010, some districts were redrawn, in such a way that many would argue favored the Republican Party. Second, the issue of undisclosed money, which according to The Sunlight Foundation, was spent in a much larger degree

in favor of the Republican candidates. Both of these issues will be discussed. I will then present the general findings in Klumpp et al.'s (2012) article. This is important because the goal of this case study is to investigate the degree to which the Ohio results in 2012 fit the expectations generated by this article. In section 4.2.3 I compare the outcomes in Ohio to the article, to see if their findings fit the case of Ohio. I then present an overview of the election outcomes and the money spent in Ohio in general, Senate and House races, before discussing the results.

4.2.1 The of case Ohio

In this part of the case study I discuss the redistricting process that occurred in the aftermath of the 2010 election, in which the Republican Party redrew the district lines in a handful of states, among them Ohio. Overall, in the 2012 election, the Republican Party managed to win 55 percent of the House seats, even though Mitt Romney only got percent of the popular vote.¹¹ One possibility could be that many voters split their vote by voting for President Obama in the presidential election and then voting for a Republican candidate in their own district. However, according to *The Huffington Post*, more than *half-a-million* more Americans voted for Democratic House candidates than for Republicans House candidates. This may indicate that the redistricting process, executed by the Republican Party, might have been an important factor for their success in the 2012 House elections.

4.2.1.1 Redistricting

In January of 2013, The Republican State Leadership Committee released a report called “2012 REDMAP Summary Report”. In the report they explained their strategy for the 2012 election, and how they used its efforts in the 2010 election cycle to erect a “Republican firewall” through the redistricting process, which paved the way for Republicans to retain the House majority in 2012 (The Republican State Leadership Committee 2013). They reported that aggregate numbers show that voters pulled the lever for Republicans only 49 percent of the time in congressional races, suggesting that

¹¹ In the U.S. presidential elections, the national popular vote is the sum of all votes cast in every state and the District of Columbia.

the 2012 election could have been a repeat of 2008, when the Democrats won control of the White House and both chambers of Congress. Instead, Republicans enjoyed a 33-seat margin in the House of Representatives after the 2012 election. According to the report, not only half a million, as reported in *The Huffington Post*, but over one million more votes were cast for Democratic House candidates than Republicans. Although they lost the national popular vote for members of the House, the 2012 election was a significant Republican victory in terms of the number of Republicans elected. The report explained how President Obama won re-election in 2012 by nearly 3 points nationally, won 126 more electoral votes than Mitt Romney, and how Democratic candidates for the U.S. House won over a million more votes than the Republican candidates, but the Republican Party presides over a 33-seat Republican majority in the House of Representatives. In explaining these outcomes, the report suggested that one need not look farther than to four states¹² that voted Democratic on a statewide level in 2012, yet elected a strong Republican delegation to represent them in Congress. Ohio was one of those four states.

The Republican State Legislative Committee started planning this strategy as soon as the 2010 Census approached, and focused critical resources on legislative chambers in states projected to gain or lose congressional seats in the 2010 election. Their goal was to control the redistricting process in these states, and as quoted in the review, to “solidify conservative policymaking at the state level and maintain Republican stronghold in the U.S. House of Representatives for the next decade” (The Republican State Leadership Committee 2013). The Republican State Leadership Committee raised more than \$30 million in 2009-2010, and invested \$18 million after Labor Day 2010 alone, to fund the initiative.

After the success of the 2010 election, the Republican Party used their power to re-draw congressional district lines in a way that would maximize the Republican outcome in the 2012 House election. For example, if there were four neighboring districts, two of them being 60 percent Republican and two of them being 60 percent Democrat, the district lines would be re-drawn to make one district 100 percent Democrat, and the other three 67 percent Republican. In this way the Democrats would only win one seat, while the Republicans would win three.

¹² The four states were Michigan, Pennsylvania, Wisconsin and Ohio.

For congressional districts it's the state legislature that is responsible for the redistricting process. The governor can exercise his influence through a vote. In Ohio, all three bodies were held by Republicans: they held majorities in both the House and the Senate, and the newly elected governor, John Kasich, was also a Republican. The U.S. Constitution requires that each district have about the same population, at least within the state. In Ohio, especially in the northeastern part, population has declined. The northeastern part of Ohio consists of Cleveland, Akron and Canton, and is historically a Democratic area. The state's Republican administration has been widely criticized for what some are calling, exploiting the redistricting process, and they are accused of "packing". Packing is a process by which district lines are drawn to include certain demographic blocs, who tend to vote one way or another (Suttles 2012). Although districts should be drawn to reflect a state's ethnic, racial and social landscape, this practice limits the population's voting power. One redistricting completed in 2012, considers Lakewood, Ohio, a primarily suburban metropolitan city near Cleveland, and Toledo, Ohio, an industrial city affected greatly by the auto bailout, to be comparable enough in demographics that they are included in the same district, even though the two cities are over 100 miles away from one another. Ohio had thirteen Republican and five Democratic members of Congress in 2010, but two seats were eliminated in 2012. The new District 9 forced two Democratic representatives, Marcy Kaptur and Dennis Kucinich to square off in the primary as their districts got combined. The executive director for John Boehner, the Speaker of the House, has also been criticized for not only being extremely active in the process, but also for trying to keep it from the public (Suttles 2012). This indicates that the redistricting process did influence some races in Ohio House elections.

4.2.1.2 Dark Money

Writing the Opinion of the Court in *Citizens United*, Justice Kennedy wrote:

Prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profit, and citizens can see whether elected officials are "in the pocket" of so called moneyed interests. The First Amendment protects political speech and the disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages (Supreme Court 2010).

The Supreme Court acknowledged that large sums of money could potentially corrupt the system, but the disclosure was going to prevent this from happening. In the aftermath of the decision, in the two elections that have occurred, it has become clear that a vast amount of money spent in these elections were undisclosed.

As mentioned previously, while Super PACs are required to disclose their donors, other outside groups such as 501 (c) (4)'s are not. These groups make expenditures either as ads purchased directly, or as contributions to Super PACs. According to The Center for Responsive Politics, in 2010, nearly 44 percent of the outside spending was either by organizations that didn't make their donors name publicly available or by groups who received a substantial portion of their contributions from such non-disclosed groups. Also, Super PACs must disclose their donors to the Federal Election Commission on a quarterly basis, and twice annually in non-election years. That means the public only finds out who spent what months after the fact, sometimes after the election (Dwoskin 2013).

According to the *Washington Post*, most of the ad spending has been aired in battleground states from conservative groups that criticize President Obama's policies. Secretive groups have also spent tens of millions more targeting congressional races; also these ads have mainly been in support of Republicans (Eggen 2012). The Sunlight Foundation, a nonprofit and nonpartisan organization reports that eighteen of the incoming members of Congress in 2013 each got more than \$1 million in dark-money

donations, in the last election. The five biggest dark money spenders are all Republican groups: Crossroads GPS (\$66.9 million), the U.S. Chamber of Commerce (\$31.1 million), Americans for Tax Reform (\$15.4 million), Americans for Job Security (\$12.5 million) and the American Future Fund (\$10.7 million). Also, according to a Sunlight Foundation analysis, based on reports filed with the Federal Election Commission, about one quarter of outside money spent on the general election was dark money. Also, this number is an underestimate because tens of millions of dollars in election expenditures have yet to be reported to the Federal Election Commission. Nine incoming members of the House, two of who were elected for the first time, benefitted from over \$1 million in dark money in their general elections. The dark money that helped these nine candidates represents 33 percent of the outside spending in their races. Only three of the 22 races featured more dark money spending against Republican candidates, and in 19 of the races more money was spent in favor of the Republican Party. The three candidates that were most helped by dark money were all Republicans, one of these being Bill Johnson from Ohio's district 6. Table 1B in the appendix, shows the House races where most dark money was spent.

As mentioned earlier, many of the outside groups that spend money in elections, particular groups organized as social welfare nonprofits under section 501(c) (4) of the current tax code, do not disclose their donors. In the 2012 election these groups were the biggest spenders (Blumenthal 2012). One of these groups, which is not reporting their expenditures to the Federal Election Commission or disclosing its donors is the social welfare nonprofit Crossroads GPS. This outside groups is linked to the well known Republican political consultant and policy advisor, Karl Rove, who also was a Senior Advisor and Deputy Chief of Staff during the George W. Bush administration.

In an attempt to get more transparency in the campaign finance system, legislation that would require independent groups to disclose the name of contributors who give more than \$10,000 for use in political campaigns was presented in Congress. The primary sponsor of the legislation was the Democratic Senator Sheldon Whitehouse. Senate Republicans blocked the bill. In a 51-44 vote the bill failed to obtain the 60 votes needed to clear a Republican filibuster.¹³ Also Senator John McCain, one of the primary authors

¹³ A filibuster occurs when a Senator engaged in debate refuses to yield the floor and with that prevents the

of the 2002 Campaign Finance Reform Bill voted to block the bill. The filibuster was led by Senate Minority Leader Mitch McConnell, who wrote an op-ed for *USA Today*, where he claimed the bill was “un-American”, and “an attempt to identify and punish political enemies, or at the very least, intimidate others from participating in the process” (McConnell 2012). This was not the first time the Disclosure Act was debated over in Congress. In 2010, the bill was also blocked by a Republican filibuster in a 59-41 vote (Blumenthal 2012).

4.2.2 “Money Talks: The Impact of Citizens United on State Elections”

This case study seeks to investigate the degree to which the expectations generated by Klumpp et al.’s (2012) study fits the case of Ohio. I will therefore begin by presenting the article in more detail.

The hypothesis tested in the article is whether the *Citizens United* decision gave an electoral boost to Republicans, at the expense of Democrats. Klumpp et al. (2012) base their argument on the fact that historically, in terms of direct contributions, business interests outspend labor interests. Since business interest tend to contribute more to the Republican Party, as they are more aligned with corporate interests, those candidates should see their electoral chances increase if independent spending is as unbalanced as direct contributions have been in the past. In that way, removing restrictions on independent spending can increase the probability that Republican candidates win elections, at the expense of Democratic candidates. Prior to 2010, there were 26 states that had never placed any restrictions on independent political expenditures and in that way those states were not affected by the Supreme Court decision. The 24 states that had bans on independent expenditures, had to lift these restrictions following the Court’s decision. This makes the U.S. states an ideal testing ground for the effects of the decision.

In the article, data covering the 2010 elections and five prior election cycles were utilized to obtain difference-in-differences estimates of the impact *Citizens United* had on election outcomes in the states that were affected by the ruling. All together, data on 31,080 congressional elections were analyzed. For outcome and control variables, the

bill from taking place.

authors used state-level campaign finance data provided by the National Institute on Money in State Politics.¹⁴ The data include candidate-level detail for state-level elections including party affiliation, state, the election cycle year the candidate ran for office, the district from which the candidate sought election, whether the candidate was an incumbent or challenger, whether the candidate won or lost, and total direct contributions raised by the candidate.

The article starts by taking a preliminary look at the state election outcomes before and after *Citizens United*. They observe that in 2010, the first year that all states were required to allow unrestricted independent spending, in the states that had prior bans, Republican candidates won 53.3 percent of the Congressional races. This represents an increase of 11.3 percentage points over the fraction of Republican-won seats in 2008. In the states without prior bans, Republican candidates won 54.1 percent of races, which is an increase of 6.6 percentage points over 2008. Furthermore, in the 2010 House elections, Republican-won seats increased by 11.9 percentage point in states with prior bans, and by 8.0 percentage points in states without bans and for Senate elections, Republican-won seats increased by 10.2 and 1.9 percentage points (Klumpp et al. 2012: 8). This pattern suggest that an additional factor affected the 2010 elections in some states, that being the removal of state bans on independent expenditures in election as a result of *Citizens United*. The larger increase in Republican-won seats in 2010 in states with prior independent expenditure bans provide some suggestive evidence that Republican candidates did enjoy an electoral advantage as a result of the ruling. It should be mentioned, however, that 2008 was an election year marked by very strong anti-Republican sentiments in the United States, while 2010 was a year marked by equally strong pro-Republican sentiments. Also, the data in which this is based on are highly aggregated and controls for other factors that affect election outcomes are not included so no causal inferences can be made (Klumpp et al. 2012: 8). The demographic control variables they used for each state and election year were: AVERAGE HOUSEHOLD INCOME and PERCENT OF THE POPULATION WITH A COLLEGE DEGREE, and PERCENT BLACK.

In testing the hypothesis that *Citizens United* increased the Republican candidates

¹⁴ (NIMSP) collect campaign finance reports submitted to state disclosure agencies by all state-level candidates in primary and general elections.

probabilities of winning state legislative elections, two different methods were used, a *probit* model, and a *linear probability* model, this to estimate the model by using race and candidate-level data. The results suggest that *Citizens United* did help Republican candidates in the 2010 congressional election, at least for the House races. For the Senate, their results were not statistically significant. They found an increase in Republican winning probabilities in House races by 2.0-2.8 percentage points. This also corresponded with the 5-7 percent increase in seats picked up by Republican candidates in 2010, compared to 2008, in states that had restrictions on independent expenditures prior to *Citizens United*. This implies that about 17-24 percent of the 2010-over-2008 surge in Republican-won House seats in states with prior restrictions is associated with the lifting of these bans following *Citizens United* (Klumpp et al. 2012: 9).

Klumpp et al. (2012) also test whether the removal of independent spending bans provided an advantage to incumbents at the expense of challengers. They conclude that the removal of independent expenditure bans in states that had such bans prior to 2010, is associated with an increase on the re-election probabilities of Republican incumbents by approximately four percentage points. This increase was statistically significant at the 5% level in all Congressional races, as well as in House races only. There were negative effects found on the re-election chances of Democratic incumbents, but those effects were not statistically significant. These findings implies that it seems to be more difficult to unseat Republican incumbents, but not more difficult to unseat Democratic incumbents after *Citizens United*.

4.2.3 How Ohio outcomes compares to the findings in Klumpp et al. (2012)

As a result of the redistricting process, the state of Ohio went from having 18 districts in the 2010 election, to 16 districts in the 2012 election. As mentioned earlier, this makes it somewhat hard to compare the results from 2012 with the results from 2010, as there is a different sample in the different districts now. Because of the redistricting I argue that a case study is more advantageous. By employing a case study approach and study the elections more in depth, it gives me a deeper understanding of how these changes affected the outcomes, as well as the role of money and this fit findings in Klumpp et al.

(2012). The question I want to answer by doing this case study is how the Republican gains in the Ohio House fit the study made by Klumpp et al. (2012). Ohio is one of the states that had a prior ban on independent spending, and it is therefore reasonable to assume that their findings should be reflected in Ohio. I will first investigate whether the findings are reflected in Ohio for 2010, from when their study is based upon, and figure out what the Republican gain was from 2008-2010. Second, to investigate to what extent their findings fit the case of Ohio for the 2012 House elections, I will look closer at the gain in 2012 and explore how much this increased from 2010 to 2012.

As mentioned earlier, Klumpp et al. (2012) found an increase in Republican winning probabilities in the House races by 2.0-2.8 percentage points from 2008 and 2010 (for all the states that had bans). They point out that this correspond with the 5-7 percent increase in seats picked up by Republican candidates in 2010, compared to 2008, in the states that had restrictions on independent expenditures prior to the *Citizens United* decision. With this they imply that about 17-24 percent of the 2010-over-2008 surge in Republican-won House seats in the states that had restrictions is associated with the lifting of these bans as a result of *Citizens United*. They observe that in 2010, the first year that all states were required to allow unrestricted independent spending, in the states that had prior bans, Republican candidates won 53.3 percent of the Congressional races, representing an increase of 11.3 percentage points over the fraction of Republican-won seats in 2008. In the 2010 House elections, Republican-won seats increased by 11.9 percentage point in states with a prior bans on independent spending.

In 2010, the Republican Party won 13 out of 18 races in Ohio, and with this they gained 5 seats from 2008, when they held 8 out of 18 seats. The Republican Party then controlled 72,2 percent of the seats for Ohio, an increase from 2008, when they only controlled 44 percent of the seats. For the Ohio House election in 2010, Republican-won seats increased by 28,3 percentage points, compared to the 11.9 percentage point increase Klumpp et al. (2012) found for all the states with prior bans. This gain from 2008 and 2010 represent a 63,7 percent relative increase. According to this, the increase in Ohio compared to all the states with prior bans, was larger than one would expect based from the article. The reason for this could be that because Ohio is one of the larger and most important battleground states, more money and effort was also spent here.

When looking at the 2012 election outcomes, compared to 2010, Republican won 12 out of 16 seats in Ohio. This is 75 percent of the seats, compared to the 72,2 percent they had in 2010. This then represent a 2,8 gain in percentage points, form 2010 to 2012. This gain represents a 3,8 percent relative increase in Republican-won seats from 2010 to 2012 in Ohio House seats. As expected, the increase from 2010 and 2012 is not as large as it was from 2008 to 2010 but that the Republican Party did even further increase their gain. When comparing the finding in Klumpp et al. (2012) to the results in Ohio House races in 2010, I find that there was a larger increase in Republican-won seats in Ohio than in all the states with prior bans on independent expenditures. Also, when looking at the percentage point increase in Republican won seats in Ohio from 2008, before *Citizens United*, and the previous election in 2012, Republicans have had a 30,56 percentage point increase, which represent a 68,8 percent relative increase from 2008 to 2012. This regardless of the fact, that the state has elected a Democratic President in the two previous elections.

When looking at the gains, by comparing the findings in Klumpp et al. (2012) with the results in the Ohio House races in 2010, I find that there was a larger increase in Republican-won seats in Ohio, than in all the states combined, that prior to 2010 had a ban on independent spending. From 2008 to 2010 Republican-won seats in Ohio increased 28,3 percentage points, compared to Klumpp et al.'s (2012) 11,9 percentage points. As for 2012, there was an increase of 2.8 percentage points in Republican-won seats, which indicates that the Republican Party even further had their winning probabilities increased. Republicans have had a 30,56 percentage point increase, which represent a 68,8 percent relative increase from 2008 to 2012. As explained above, the Republican-won seats increased even further in 2012, and this indicates that the case of Ohio does fit the expectations generated by Klumpp et al. (2012).

4.2.4 Discussion of the case study

Klumpp et al. (2012) assume that Republican Party would get an electoral boost after *Citizens United* because historically, corporate interest has outspent labor, and corporate interest tend to favor the Republican Party. They futher imply that the amount of money

being spent in elections may have an effect on the outcomes. I will therefore look closer at the amount of money that was spent in the Ohio House races. I have collected data on how much the candidates' campaigns raised, how much outside money that were involved, and also how much dark money were spent in the different races.

Due to the closeness of the vote and its wealth of electoral votes (18), Ohio has been a very important battleground state in recent elections. In reality, only a few states remain competitive in the elections, because most voters tend to vote based on their political party affiliation (Hutchison 2012). Most time and efforts are therefore spent in the states where there is a somewhat even balance between Democrats and Republicans. Ohio has a relatively even balance, and it is also one of the larger states that do. This makes Ohio not only a battleground state, but also one of the important ones (Hutchison 2012). As Ohio has 18 electoral votes it was also considered almost essential from both President Obama and presidential candidate Mitt Romney on their path to winning the general election. Because of its importance, a lot of outside money were spent in Ohio.

The Senate race in Ohio was between Democrat Sherrod Brown, who got elected as a Senator for the first time in 2006, and Republican Josh Mandel. The race received a lot of attention in the media, as was fueled by Super PAC money and advertising. According to The Center for Responsive Politics \$67 million was spent on the 2012 Senate race in Ohio. Out of that, \$34 million dollars was spent by outside groups. The Sunlight Foundations also report \$13,061,223 of the outside spending was undisclosed. Out of all the Senate races, the Senate race in Ohio was second on the list of most dark money spent in Senate elections.¹⁵ Out of the undisclosed money, 2,2 percent was spent in favor of the Democratic candidate and 97,7 percent was spent in favor of the Republican opponent. Brown raised \$24,840,222 million dollars in the race. The Republican opponent, Josh Mandel raised \$18,912,557 all together in his 2012 campaign. The fact that so much money was spent in Ohio in the senate race highlights the importance to win in Ohio. Also, the fact that so much of the outside money was spent in favor of the Republican candidate fit the assumption that independent spending, as well as direct contributions, is more likely to support the Republican Party. However, this did not affect the outcome, and the Democratic Senator was reelected.

¹⁵ The Senate race in Virginia (also battleground state) was the race where most dark money was spent.

In the 2012 Presidential election, President Obama won the election by 3 points over Mitt Romney, the vote margin being 51 percent over 48 percent overall. In Ohio, President Obama got 50,7 percent of the votes, over Mitt Romney's 47,7 percent. The Democratic Senator Sherrod Brown also beat his opponent and got re-elected with 50,7 percent of the vote, over Josh Mandel's 44.7 percent. Looking at the Ohio House races, as mentioned earlier, the Republican Party won 12 out of 16 seats, which is 75 percent of the seats and is also in increase from 2010 with 2.8 percentage points. It seems odd that the Republican would win that many seats of the House, after the state elected both a Democratic President and a Democratic Senator. However, as mentioned earlier, Ohio were one of the states where district lines were redrawn, a strategy carried out by The Republican State Leadership Committee that started prior to the 2010 election. In Ohio, The Republican State Leadership Committee spent nearly \$1 million on House races in 2010, targeting six seats, five of which were won by Republicans. President Obama carried five of these legislative districts in 2008 (The Republican State Leadership Committee 2013).

The strategy seems to have worked. In 2012, Ohio voted to re-elect President Obama by almost 2 points, the Democratic Senator Sharron Brown won by more than five points, but the Republican firewall at the state legislative and congressional level held as the Republican State leadership Committee had planned. According to The Republican State Leadership Committee, despite voters casting only 52 percent of their vote for Republican Congressional candidates, the Republican redistricting resulted in a net gain for the GOP state House caucus in 2012, and allowed a 12-4 Republican majority to return to the U.S. House of Representatives. The effect of the "REDMAP" strategy on the 2012 election was also evident in the other states that were targeted, especially in Pennsylvania and Michigan.¹⁶

The Republicans won 12 out of 16 seats in the Ohio House races in 2012. Out of the seats that were Republican in 2010, the Republican candidates won 11 out of these in 2012. District 3 was Republican in 2010, but became Democrat in 2012. The Democrat

¹⁶ In Pennsylvania the voters casted 83,000 more votes for Democratic U.S. House candidates than their Republican opponents, but elected a 13-5 Republican majority to represent them in Congress. In Michigan the voters casted 240,000 more votes for Democrats than Republicans, but elected a 9-5 majority to Congress (The Republican State Leadership Committee 2013).

Joyce Beatty won the race against Republican Chris Long. In this race, 99,9 percent of the outside spending was spent in favor of the Democratic candidate. It should be mentioned however, that the Republican candidate was not the incumbent in this race. The Republican Michael R. Turner was the representative for district 3 in 2010, but in the 2012 election ran to become the representative for district 10. District 10 was Democratic in 2010, but then became Republican in 2012, as Republican Michael R. Turner won the race. In this race, 93,1 percent of the outside spending was spent in favor of the Republican candidate. Three of the districts that were Democratic in 2010, also stayed Democratic in 2012.

Overall, Ohio stood out as a state where a lot of outside money were spent, both disclosed and undisclosed. Including PAC and individual contributions to federal candidates, and PACs, parties and outside groups, the total amount of spending in the 2012 elections in Ohio was \$84,309,165, and the state is listed as the 12th state which received the most contributions. According to The Center For Responsible Politics, out of the contributions in Ohio, 27 percent were made to Democrats and 61 percent to Republicans. This indicates that overall, more money was spent in favor of the Republican Party. In table 2B included in the appendix, all the candidates in elections 2012, 2010 and 2008 are listed, including the amount of money their campaign raised. In the 2012 election, the Republican House candidates' campaigns had raised more than their Democratic opponents in 11 of the 16 districts. Also, in 2010 they had raised more in 14 out of the 18 districts. Before *Citizens United* however, in the 2008 election, the Democratic candidates' campaigns raised more in ten of the districts.

Table 4: Outside spending 2012

Candidate	District 1		District 2		District 3	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican			\$2,724			
Republican	\$3317		\$138,342		\$10	
Democratic	\$643		\$42		\$137,526	
Democratic	\$391				\$121	
Total	\$4351		\$141,108		\$137,657	
Against Democrats	\$0		\$0		\$0	
For Republicans	\$3,317		\$9,419		\$10	
Total	\$3,317	76.2	\$9,419	6.6	\$10	0.1
Against Republicans	\$0		\$131,647		\$0	
For Democrats	\$1,034		\$42		\$137,647	
Total	\$1,034	23.7	\$131,689	93.7	\$137,647	99.9

Candidate	District 5		District 6		District 7	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican	\$2,649		\$2,798,750		\$23,171	
Democratic	\$602		\$4,400,134		\$5,667	
Total	\$3,251		\$7,198,884		\$28,838	
Against Democrats	\$0		\$4,046,827		(\$115)	
For Republicans	\$2,649		\$64,242		\$21,538	
Total	\$2,649	81.4	\$4,111,069	57.1	\$21,423	75.0
Against Republicans	\$0		\$2,734,508		\$1,633	
For Democrats	\$602		\$353,307		\$5,782	
Total	\$602	18.5	\$3,087,815	42.8	\$7,415	25.7

Candidate	District 8		District 9		District 10	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican	\$2,807		-		\$40,721	
Democratic	-		\$180,579		-	
Democratic	-		\$124,492		\$3,015	
Total	\$2,807		\$305,071		\$43,736	
Against Democrats	\$0		\$169,849		\$0	
For Republicans	\$562		\$0		\$40,721	
Total	\$562	20.0	\$169,849	55.6	\$40,721	93.1
Against Republicans	\$2,245		\$0		\$0	
For Democrats	\$0		\$135,222		\$3,015	
Total	\$2,245	79.9	\$135,222	44.3	\$3,015	6.8

Candidate	District 11		District 12		District 13	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican			\$8,510		\$33	
Democratic	\$3,848		\$83		\$4,486	
Total	\$3,848		\$8,593		\$4,519	
Against Democrats	\$0		\$0		\$0	
For Republicans	\$0		\$8,510		\$33	
Total	\$0		\$8510	99.0	\$33	0.7
Against republicans	\$0		\$0		\$0	
For Democrats	\$3,848		\$83		\$4,486	
Total	\$3,848	100	\$83	0.9	\$4,486	77.1

Candidate	District 14		District 15		District 16	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican	\$92,565		\$4,007		\$5,192,849	
Republican	\$5,294					
Democratic	\$665		\$737		\$4,823,890	
Total	\$98,524		\$4,744		\$10,016,739	
Against Democrats	\$0		\$0		\$4,494,378	
For Republicans	\$97,859		\$4,007		\$173,713	
Total	\$97,859	99.3	\$4,007	84.4	\$4,668,091	46.6
Against Republicans	\$0		\$0		\$5,019,136	
For Democrats	\$665		\$737		\$329,512	
Total	\$665	0.6	\$737	15.5	\$5,348,648	53.3

Note! District 4 is not included because only races with at least \$1000 in outside spending are included on Opensecrets.org's webpage. Source: www.opensecrets.org.

Table 4 shows the candidates in Ohio House races and the outside spending spent in the elections that were disclosed to the Federal Election Commission. In their data, district 4 is not included, as less than \$1000 was spent there. In the remaining 15 races, in 8 of them, more money was spent in favor of the Republican candidates, and in 6 of the races more was spent in favor of the Democratic candidates. I expected that in most races, outside groups would spend more money in favor of the Republican candidates, and by looking at this data, evidence suggest that my assumption was right.

When looking at the two previous election cycles however, more outside spending was spent in favor of Democratic candidates. In the 2010 election, out of the 15 races that were listed at The Center For Responsive Politics' webpage, outside groups spent more in favor of the Democratic candidates in ten of the races. In 2008, in the 11 races that spent more than \$1000, outside groups spent more in favor of the Democratic candidates in 7 of these races. However, as the elections in 2010 occurred the same year as *Citizens United*, one could argue that the real effect of the treatment was yet to be seen. For more on outside spending in 2010 and 2008, see table B3 and B4 in appendix.

Some of the races in 2012 received attention than others, and these will here be discussed in detail. These are races that either got affected by the redistricting process, or where outside spending played a big role. When looking at spending by outside groups in the Ohio House races, there are a couple of races that stand out. In the newly drawn district 16 in northeast Ohio, in the race between the Republican Jim Rennacci and Democrat Betty Sue Sutton, outside groups spent more than \$ 10 million dollars.¹⁷ Incumbent Republican Rennacci, who was seeking a second term, narrowly defeated another incumbent, Democrat Sutton, who was seeking a fourth term. Rennacci got 52,2 percent of the votes, to Sutton's 47,8 percent.

When considering how much outside groups spent in the election, it is clear that they were very active. As mentioned earlier, outside groups reported that they spent more than \$10,000,000 in the race, more accurately, \$10,016,739. Out of the money, 53,3 percent was spent in favor of the Democratic candidate Sutton, while 46,6 percent was spent in favor of the Republican candidate Rennacci. According to this, outside groups

¹⁷ According to the Center for Responsible Politics, the only other district in which outside groups spent more money was district 12 in Pennsylvania.

spent more money in favor of the Democratic candidate in this important race, and this is against what I expected.

According to the Sunlight Foundation, \$125309,55 of the money spent by outside groups in this district undisclosed. Out of the undisclosed money spent by outside groups, 73,5 percent was spent in favor of the Democratic candidate and 26,4 percent was spent in favor of the Republican candidate. According to these numbers, outside groups spent more in favor of the Democratic candidate, which lost the election. As far as outside spending in district 16, more was spent in favor of the Democrat, both disclosed and undisclosed. In table B5 in the appendix, all dark money in Ohio is listed.

When considering how much each candidate's campaign raised however, the Republican raised more than the Democratic opponent. Republican candidate Rennacci raised \$ 3 274194 million, while Sutton only raised \$2 523935 million. Still, in this race more money overall was spent in favor of the Democratic candidate. Combined, \$6522977 more was spent in favor of Sutton, which ended up losing the race.

As mentioned earlier, because of the redistricting process, some of the districts were redrawn in such a way that favored the Republican Party. Sutton had been a Representative for District 13 since 2006, but her district was eliminated during the redrawing process. The new 16th district featured 50 percent of Rennacci's old district, and only 20 percent of Sutton's old district. This was a disadvantage for the Democrat as she had never represented 80 percent of the people in this new district and the current district is also more conservative than her previous district (Emanuel 2012). Also, historically, district 16 is a Republican district. Except for 2008, the district has voted a Republican to represent them in each election since 1992. In the 2008 election, the Democrat John Boccieri defeated the Republican opponent 55 percent to 45 percent. Rennacci then defeated the Democrat in the 2010 election, with 52 percent to Boccieri's 41 percent. Before that Republican Ralph Regula had won the district every election since 1992. Even though the outside spending favored the Democratic candidate, the Republican candidate won. With the way the districts were redrawn however, it implies that the redistricting process in fact did favor the Republican Party in this case. According to the theory on incumbents, as the district were drawn in such a way that Rennacci had represented 50 percent of the district, while only 20 percent had been

represented by Sutton, it should work in favor of the Republican candidate.¹⁸ Abramowitz (1991 and 2006) document that incumbent re-election rates are high in the U.S. House races and that this is in large due to challengers being at financial disadvantage. Because Sutton was an incumbent, she had the ability to raise the money, but as she had only represented 20 percent of the people in the newly redrawn, and largely conservative district, the disadvantage was too big.

Another race that received a lot of attention in 2012 was Ohio's district 6, and the race between Democrat Charlie Wilson and Republican incumbent Bill Johnson. Democrat Charlie Wilson had represented the District 6 between 2006 and 2010, and he lost to Bill Johnson in the 2010 election. This was an important seat to gain back for the Democratic Party, and the Democratic Congressional Campaign Committee selected Charlie Wilson to be a part of the "Red to Blue" program, a program that offered financial, communications, grassroots and strategic support. The Democratic Party was expected to spend a lot of money trying to win back this seat. As this race was considered to be a thought race for both parties, outside groups also spent a lot of money in this election. Together outside groups spent \$7,198,884 dollars in the race. Out of this 42,8 percent was spent in favor of Democratic candidate and 57,1 percent was spent in favor of Republican candidate. Also, when looking at the outside money that were undisclosed in this election, a total of \$ 3152541,71 was undisclosed and all of this money were spent in favor of the Republican candidate, in attacking the Democratic candidate Charlie Wilson and supporting the Republican Bill Johnson (Steiner 2012). The Republican candidate's campaign also raised more than the Democrat. While the Republican's campaign raised \$ 2 026 754, the Democratic candidate raised \$1 327 727. Republican Bill Johnson won the 2012 election with 53 percent of the votes. The Democratic candidate got 47 percent of the votes. In this important race, the outside groups spent a significant amount more on the Republican candidate, in which also won the race. As the amount of money spent favored the Republican candidate to such a large degree, it is reasonable to assume that this benefited him.

Another race that stands out is the race in District 8, where the speaker of the House, John Boehner ran. He won unopposed in the 2012 election, but still it was the

¹⁸ The number don't add up because the new district included parts of several districts

second most expensive race. His campaign raised \$22,024,288 in the race. On the list of the top PAC recipients, John Boehner was sixth on the list, and Patrick Triber of Ohio's district 12 was number nine on the list. According to The Center for Responsive Politics, outside groups did not spend as much on the election, but of what got spent, most of it was spent against Republican candidates. As John Boehner didn't have an opponent in the 2012 race, it's hard to evaluate the impact of the money, but the fact that he raised and spent that much money may have discouraged anybody to race against him

Overall, the Republican candidates won 12 out of the 16 seats in the 2012 Ohio House Election. Outside groups spent more money in favor of the Republican candidates in these races, and the Republican candidates' campaign also raised more money than their Democratic opponents. This fits my expectation that more money would be spent in favor of the Republican Party.

When looking at the gains, by comparing the findings in Klumpp et al. (2012) with the results in the Ohio House races in 2010, I find that there was a larger increase in Republican-won seats in Ohio, than in all the states combined, that prior to 2010 had a ban on independent spending. From 2008 to 2010 Republican-won seats in Ohio increased by 28,3 percentage points, compared to Klumpp et al.'s (2012) 11,9 percentage points. From 2010 to 2012 there is still an increase in Republican-won seats by 2.8 percentage points, and this confirms that the Republican gain from 2010 is continuing. Prior to *Citizens United*, Republicans have had a 30,56 percentage point increase, which represents a 68,8 percent relative increase from 2008 to 2012.

In Ohio, as it is one of the larger and most important battleground states, a lot of outside money was spent here. As mentioned earlier, in eight of the fifteen races presented in table 4, outside groups spent more in favor of the Republican candidates. The two races that stood out the most were the race in district 6 and the race in district 16. In these two races outside groups spent the most money, and it was also here that most money was undisclosed. While the Republican won both these seats, in district 16, more money was spent in favor of the Democrat Sutton in district 6. However, due to the districting process, she had a clear disadvantage.

Ohio stands out both when it comes to redistricting and the amount of dark money being spent in the elections. Klumpp et al. (2012) suggested that the Republican Party

would perhaps even further increase their winning probabilities in the district where they control the redistricting process. As for Ohio the Republican Party did gain control over the redistricting process in the 2010 election, and it may seem like this has in fact increased their winning probabilities. The issue of dark money is not taken into account or even discussed in their article, even though millions of dollars used in the recent election were undisclosed and a lot of this money also favored the Republican Party.

In answering the second hypothesis, whether the findings in Klumpp et al. (2012), although the increase in Republican-won seats were not as large in Ohio as it was from 2008 to 2010, it is still an increase in their gain from 2010. Overall, more money were spent in favor of the Republican Party, as suggested by Klumpp et al. (2012). Also, Klumpp et al. (2012) suggest that in the states that the Republicans were in control of the redistricting process, they may see their winning probabilities increase even further. It seems to be the case for Ohio, as they gained more seats in 2012.

5. Discussion

In 2010, when the Supreme Court ruled in favor of Citizens United, the decision created a great deal of controversy. The United States has a long history of limiting the spending by corporations in elections, in fear that this would lead to corruption. Still, the Supreme Court chose to overrule several previous decisions on the subject in favor of corporate spending. The Supreme Court based their argument on First Amendment grounds, and the underlying theory that as these expenditures are *independent* and *uncoordinated* of the campaigns, this eliminates the possibility of corruption. They also recognized the need for disclosure, as this too would prevent corruption. The Court received massive criticism for their decision, and in the aftermath of the two previous elections, it is reasonable to question if the Court is satisfied with how their ruling has worked in reality. First of all, how *independent* and *uncoordinated* are these expenditures in reality? Most of these Super PACs and 501 (c) (4)'s are led or advised by the candidate's former staff or associates. One example is Karl Rove, a well-known Republican policy advisor, which also is the co-funder and advisor of the conservative Super PAC, American Crossroads.

One thing that the Supreme Court in fact upheld in *Citizens United*, were the disclosure requirements. Again, a vast amount of the money spent in the two previous elections has been undisclosed. As explained earlier, there are loopholes to these rules. As there are outside groups that still are not required to disclose their donors. The overall notion is that the U.S. campaign finance system is a very complicated and complex system, with many loopholes and difficult distinctions that are being exploited, and therefore the system is not working as intended.

What this decision does to the democracy is a difficult question to answer. One might ask the question of who won in this case. Was the decision a victory for the First Amendment, or, was this was a victory for corporations with huge financial resources? Many first assumed that this would strongly favor the Republican Party, as corporate interest are mostly inclined with them. Overall, a majority of the outside spending did in fact favor the Republican candidates, and as shown, there is evidence that suggest that the decision did give the Republican Party an electoral boost, at the expense of Democrats in Congressional elections. However, as President Obama was re-elected, and the Democratic Party still held on to the majority in the Senate, there were many that argued

that “democracy had won”, and that this had shown that the money did not matter as much as some people had projected. On the one hand, maybe the money did not matter as much for the outcomes as some feared, but on, other hand one might ask if this decision really is more fundamental than who won or got defeated in the election. First off, how does this decision affect political trust? The Court in *Buckley* found it crucial to the integrity of democracy, to limit individual contributions to candidates, to organizations that make contributions to candidates and expenditures that such organizations coordinate with the candidates they support, as they feared a decrease in political trust in the system. Today a huge number of Americans believes that corporate interest plays too big of a role in politics, and regardless of the low political trust, the Supreme Court ruled in favor of corporate spending.

Another, very important possible effect, is the effect on the policy-making. Lobbyism and campaign finance are closely related. For example, if Bank of America wants a particular bill to pass, would it be easy for members of Congress to vote against it? When it more than likely would lead to ads, worth millions of dollars, being used against them in the next election? It is not just about who wins the elections, but also what happens *after* the election. A possible repercussion of this decision is that the policy-makers feel pressured into making decisions not necessarily in the interest of the people, but in the interest of big business.

There is also reason to be concerned with the influence of the outside groups because they often represent very narrow interests and they have now developed a powerful role in the agenda setting. Also, the information in the ads is often false. False advertising could misinform the public and may cause them to vote on the wrong premises.

Lastly, another great concern is how *Citizens United* affected foreign corporations and individual’s ability to spend money in the U.S. elections, as President Obama also pointed out in his State of the Union speech in 2010. Although it is still illegal for non-U.S. corporations and individuals to give money to a candidate for any U.S. office, as some outside groups do not disclose their donors, this is hard to control for in the current system.

6. Conclusion

The issue of campaign finance has been a topic of controversy, as it involves important topics of the constitution, with freedom of speech on the one hand and the societal interest of having a system free of corruption on the other. For most of the U.S. history, there has been an agreement that one needs to limit corporate spending in elections, in a fear that this would lead to corruption.

In 1974, Congress attempted to establish a comprehensive system of regulation and enforcement as they passed the Federal Election Campaign Act. The Act imposed extensive limits on campaign fundraising contributions and spending, expanded disclosure requirements (by requiring each candidate to designate a single depository bank through which all transactions would be made), established the presidential public financing program and created the Federal Election Commission.

In 1976, the important decision of *Buckley v. Valeo* occurred and it was the controversial part of this decision that the Supreme Court in *Citizens United* relied heavily upon. In *Buckley*, the Supreme Court held that campaign contributions could be limited to prevent corruption or the appearance of corruption, but at the same time it struck down the *expenditure limits* from the Federal Election Campaign Act. The Court argued that limits on spending could not be justified by those same interests due to a lack of evidence that *independent* spending could corrupt candidates. The Court stated that “the absence of prearrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate” (Supreme Court 1976). In the Court’s *Austin* decision, in 1990, trade associations were required to use separate, highly regulated PACs if they wanted to influence elections. They were only funded by disclosed money and the Federal Election Commission also limited the amounts. Then, The Bipartisan Reform Act of 2002 further restricted trade associations, when corporations were prevented from airing so-called electioneering communications within sixty days of an election, and also strengthened loopholes concerning soft money. It was in *Wisconsin*, that the Court’s new direction became clear, when it struck down limits on corporate funded issue ads before it in *Citizens United* expanded and struck down any prohibitions against corporate airing

ads at any time. In 2010, the U.S. Supreme Court, for the first time in history, recognized that the political speech of corporations is entitled to the same constitutional protections as political speech by individuals. As a result of the two Supreme Court decisions, *Citizens United v. Federal Election Commission* and *Speechnow.org v. Federal Election Commission*, laws concerning campaign financing that had been there to prevent corporate influence have vanished. In *Citizens United*, the Court held that corporations have the same constitutional rights during elections as individuals, and that large corporate independent expenditures supporting a specific candidate do not give rise to corruption, or even the appearance of corruption. As a result of *Citizens United*, the Court held in *Speechnow.org* that since the expenditures themselves do not corrupt, neither do contributions to groups that make the expenditures (Liptak 2010). Together these two Court decisions laid the basis for the Super PACs, which can raise and spend unlimited amounts in elections by collecting unlimited amounts from individuals, corporations and unions. This has made it easier for outside groups to spend large sums of money in U.S. elections and the Super PACs have also developed a very influential role in the U.S. elections.

The 2012 election was the most expensive election in history and the spending by outside groups was \$1 billion. By using data collected by The Center for Responsive Politics from all the spending by outside groups in elections from 1990 up until 2012, I have estimated the effect that *Citizens United* has had on the spending by outside groups. Using a time-series design, I have analyzed the trend based on the outcome, estimated the counterfactual and from that measured the effect *Citizens United* on outside spending. In the 2012 election spending by outside groups rose tremendously, and nearly all of the spending was done in the form of independent expenditures. Outside spending rose from \$286,5 million to \$288,7 million dollars between 2008 and 2010. In the absence of the *Citizens United* ruling, I have estimated that the counterfactual for 2012 would be \$291 million. After taking into account the different threats of internal validity, I conclude that most of the increase in spending by outside groups in the 2012 election U.S. is a result of *Citizens United*. The first hypothesis is therefore confirmed.

As the outside spending was in fact abnormally high in 2012, an important thing to consider is the potential effect of the outside spending on election outcomes.

Historically, in terms of direct contributions, business interests outspend labor interests. Assuming independent spending is as unbalanced as direct contributions have been in the past, Klumpp et al. (2012) tested the hypothesis that the *Citizens United* decision gave an electoral boost to the Republican Party, since business interest tend to contribute more to the Republican Party. Their results suggest that *Citizens United* did benefit the Republican candidates in the 2010 congressional election, at least for the House races. In the 2010 House elections, Republican-won seats increased by 11.9 percentage point in states with prior bans on independent expenditures and also found an increase in Republican winning probabilities in House races by 2.0-2.8 percentage points.

The second hypothesis suggests that as Ohio is one of the states that had a prior ban on independent spending, Klumpp et al.'s (2012) findings should be reflected in Ohio. For the Ohio House election in 2010, Republican-won seats increased by 28,3 percentage points, compared to the 11.9 percentage point increase Klumpp et al. (2012) found for all the states with prior bans. When looking at the 2012 election outcomes, compared to 2010, Republicans won 12 out of 16 seats in Ohio. This represent a 2,8 gain in percentage points, from 2010 to 2012. When comparing the finding in Klumpp et al. (2012) to the results in the Ohio House races in 2010, I find that there was a larger increase in Republican-won seats in Ohio, than in all the states with prior bans, and that in 2012 Republican-won seats increased even further, by 2,8 percentage points. Overall, more money were spent in favor of the Republican Party, as suggested by Klumpp et al. (2012). Also, Klumpp et al. (2012) suggest that in the states that the Republicans were in control of the redistricting process, they may see their winning probabilities increase even further. It seems to be the case for Ohio, as they gained even more seats in 2012. With this, I conclude that the second hypothesis was also confirmed. The findings made in Klumpp et al. (2012) can be extended to the 2012 House elections in Ohio.

There is no doubt that these two rulings changed the landscape of campaign financing. Especially, on the political front, as so many of the American people seem to have lost their trust in the political system. I believe it should be of high importance to try and restore some of this trust. Trust links ordinary people to the institutions that are intended to represent them (Bianco 1994), and thereby enhancing both the legitimacy and the effectiveness of democratic government (Gamson 1968; Braithwaite and Levi 1998;

Hetherington 1998). Therefore, political trust is an essential part of a democratic system, and should not be overlooked. What is especially alarming, in my opinion, is the amount undisclosed money spent in these elections. The Supreme Court recognized the importance of disclosure, but because of the current loopholes in the system, groups like 501 (c) (4)'s still do not disclose their donors. In order to restore some of the trust it is essential that the rules and regulations for disclosure are strengthened. One big step in restoring the trust would also be to publically finance the elections to a larger degree, and with that reduce the influence of money in American politics. There are some states that have taken the initiative to this already. In Maine, Arizona and Connecticut they have already passed systems of public financing for legislatives and state officeholders. This way, one also reduces the amount of money the individual candidates need to be competitive in elections, and then also eliminate the possibility of members of Congress to feel pressured into passing bills they don't agree with.

On the academic front, there are also a lot of other aspects with the 2010 U.S. Supreme Court decision in *Citizens United* that would have been interesting to further investigate, for example the role played by Super PACs, and how they operate. One could imagine that they would continue to emerge as key players in political campaigns, with every members of Congress having its own Super PAC. Furthermore, how Super PACs has changed the role of traditional campaigns would also be interesting investigate further, as they have developed a very powerful role in agenda setting.

More importantly, it would be to find out the effect of *Citizens United* on the "health of democracy", and investigate to what extent it has affected people's trust in the government, as well as the people's participation in the democratic process.

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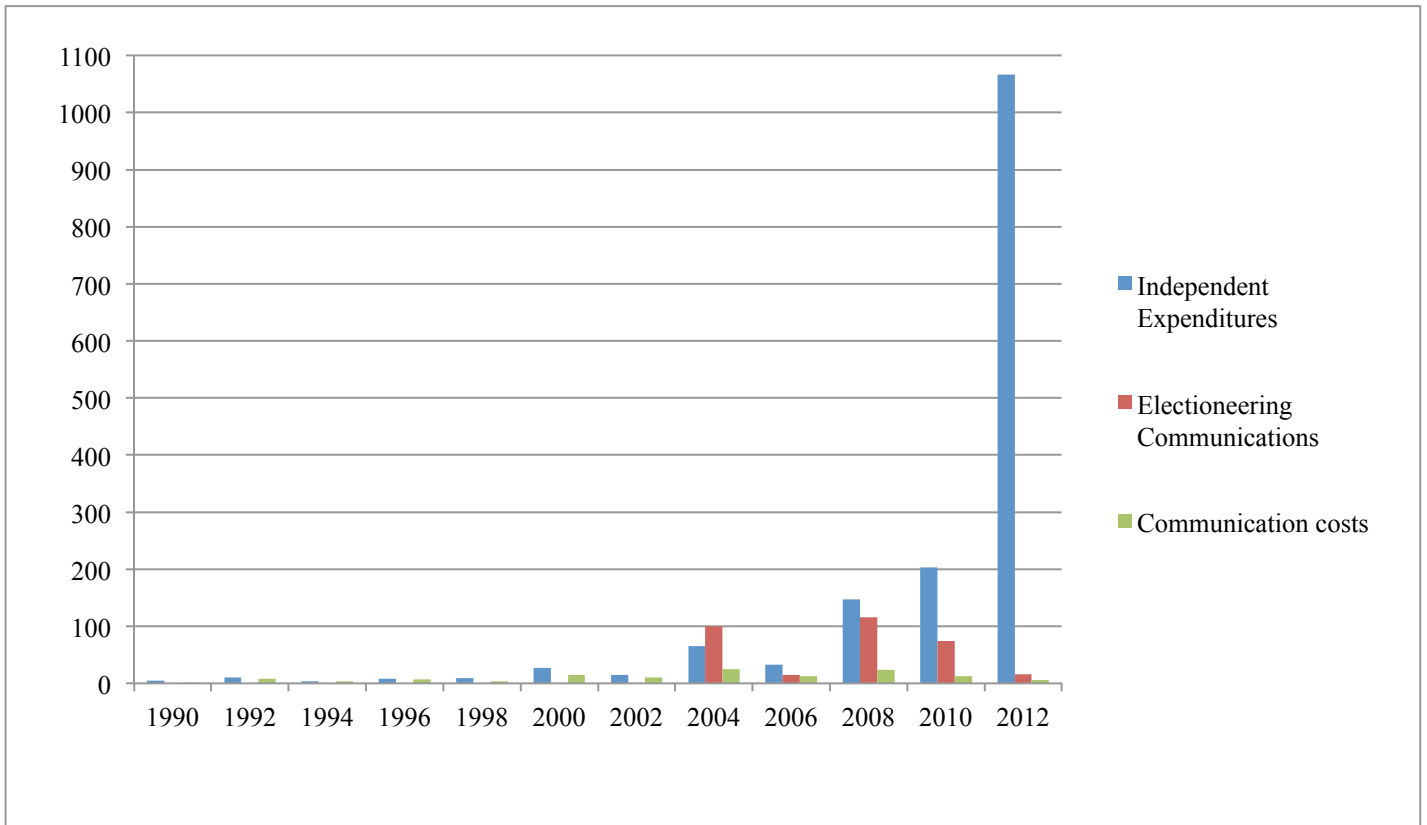
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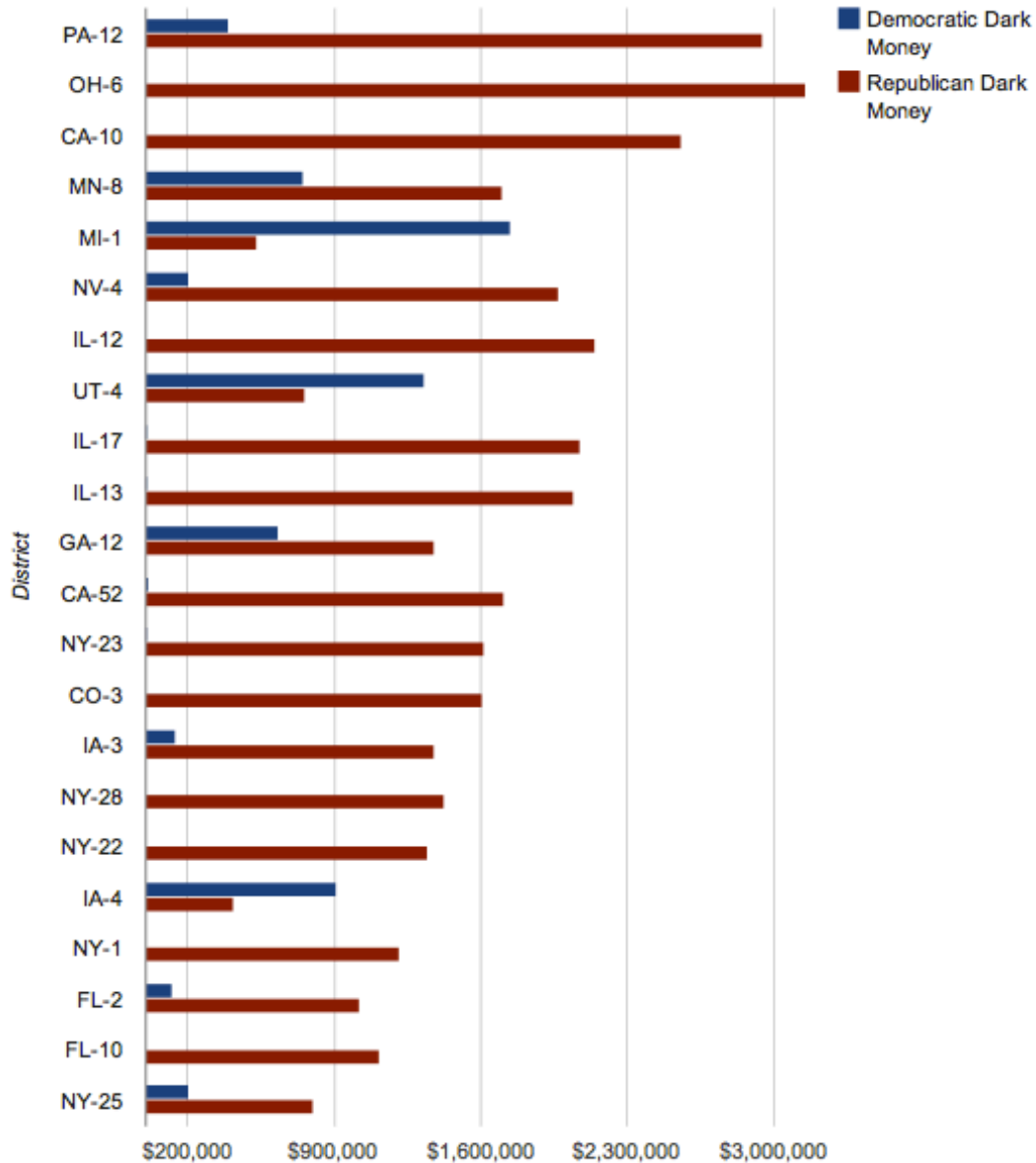
Appendix A: Time-Series

Figure A1: Histogram over spending by outside groups in elections 1990-2012. Total in millions



Appendix B: Case analysis

Table B1: Dark money, House races:



Source: The Sunlight Foundation¹⁹

¹⁹ sunlightfoundation.com

Table B2: Candidates and amount raised.

	2012 Election		2010 Election		2008 Election	
	Candidates	Amount Raised	Candidates	Amount Raised	Candidates	Amount raised
District 1	Steve Chabot (W)*	\$1 068 816	Rob Portman (W)	\$16 540 629	Steve Chabot *	\$2 349 745
	Jeff Sinnard	\$0	Lee Irwin Fisher	\$6 392 470	Steve Driehaus (W)	\$1 489 648
District 2	Brad Wenstrup (W)	\$998 233	Steve Driehaus*	\$1 930 201	Jean Schmidt (W)*	\$1 289 300
	William Smith	\$0	Steve Chabot (W)	\$2 040 665	Victoria Wells Wulsin	\$1 890 589
District 3	Joyce Beatty (W)	\$812 493	Michael R. Turner (W)*	\$764 224	Michael R. Turner (W)*	\$1 211 637
	Chris Long	\$25 451	Joe Roberts	\$7 332	Jane Mitakides	\$401 924
District 4	Jim Jordan (W)*	\$1 078 119	Jim Jordan (W)*	\$850 292	Jim Jordan (W)*	\$950 218
	Jim Slone	\$34 167	Douglas Alan Litt	\$8 230	Mike Carroll	\$30 658
District 5	Robert E. Latta (W)*	\$1 111 742	Robert E. Latta (W)*	\$591 070	Robert E. Latta (W)*	\$1 911 371
	Angela Kay Zimmann	\$475 155	Caleb Finkenbiner	\$0	George F Mays	\$6 700
District 6	Bill Johnson (W)*	\$2 026 754	Charlie Wilson*	\$1 057 441	Charlie Wilson (W)*	\$793 060
	Charlie Wilson	\$1 327 727	Bill Johnson (W)	\$671 675	Richard D. Stobbs	\$0
District 7	Bob Gibbs (W)*	\$1 550 088	Steve Austria (W)*	\$785 806	Steve Austria (W)	\$1 209 739
	Joyce Healy-Abrams	\$915 627	Bill Conner	\$0	Sharen Neuhardt	\$838 992
District 8	John Boehner (W)*	\$22 024 288	John Boehner (W)*	\$9 796 947	John Boehner (R)*	\$5 161 985
			Justin Coussoule	\$248 141	Nicholas A Von Stein	\$16 708
District 9	Marcy Kaptur (W)*	\$1 150 009	Marcy Kaptur (W)*	\$652 273	Bradley S Leavitt	\$0
	Joe Wurzelbacher	\$426 363	Rich Iott	\$1 976 644	Marcy Kaptur (W)*	\$640 879
District 10	Michael R. Turner (W)*	\$1 232 450	Dennis Kucinich (W)*	\$972 635	Dennis Kucinich (W)*	\$2 408 616
	Sharen Neuhardt	\$581 391	Peter J. Corrigan	\$330 571	James Peter Trakas	\$383 987
District 11	Marcia L. Fudge (W)*	\$689 197	Thomas Pekarek	\$0	Marcia L. Fudge (W)	\$330 361
			Marcia L. Fudge (W)*	\$566 127	Thomas Pekarek	\$0
District 12	Patrick J. Tiberi (W)*	\$3 375 830	Paula Brooks	\$1 447 544	Patrick J. Tiberi (W)*	\$2 068 833
	James Reese	\$25 393	Patrick J. Tiberi (W)*	\$3 041 995	David W Robinson	\$187 800
District 13	Tim Ryan (W)*	\$991 385	Betty Sue Sutton (W)*	\$1 799 214	Betty Sue Sutton (W)*	\$739 118
	Marisha Agana	\$52 894	Tom Ganley	\$2 151 077	David S Potter	\$34 874
District 14	David P Joyce (W)	\$952 655	William M. O'Neill	\$137 671	William M. O'Neill	\$553 677
	Dale Blanchard	\$0	Steve LaTourette (W)*	\$1 290 686	Steve LaTourette (W)*	\$1 476 187
District 15	Steve Stivers (W)*	\$2 748 358	Steve Stivers (W)	\$2 736 758	Steve Stivers	\$2 361 704
	Patrick Lang	\$109 744	Mary Jo Kilroy*	\$2 680 124	Mary Jo Kilroy (W)	\$2 592 756
District 16	Jim Renacci (W)*	\$3 274 194	Jim Renacci (W)	\$2 453 260	John A. Boccieri (W)	\$1 794 110
	Betty Sue Sutton*	\$2 523 935	John A. Boccieri*	\$2 071 652	Kirk Schuring	\$1 225 858
District 17			James J. Graham	\$71 053	Duane Virgil Grassell	\$850
			Tim Ryan (W)*	\$1 071 074	Tim Ryan (W)*	\$1 360 624
District 18			Bob Gibbs (W)	\$2 686 942	Fred L. Dailey	\$384 826
			Zack*	\$1 123 244	Zack (W)*	\$2 265 350

Note: Red=Republican, Blue=Democrat, W=winner, *=incumbent

Table B3: Outside spending 2010

Candidate	District 1		District 2		District 4	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican	\$318,813		\$409		\$41	
Democratic	\$238,373		\$2,028		\$2,428	
Total	\$557,186		\$10,037		\$2,469	
Against Democrats	\$64,511		3870		\$0	
For Republicans	\$244,789		339		\$41	
Total	\$309,300	56	4209	41,9	\$41	1,6
Against Republicans	\$86,014		0		\$0	
For Democrats	\$161,852		5828		\$2,428	
Total	\$86,014	44	\$5,828	58	\$2,428	66,6
Candidate	District 5		District 6		District 7	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican	\$212		\$739,080		\$58	
Democratic	\$2,428		\$1,454,950		\$13,228	
Total	\$2,640		\$2,194,030		\$13,286	
Against Democrats	\$0		\$339,343		\$0	
For Republicans	\$212		\$113,151		\$58	
Total	\$212	8	\$452,494	20,6	\$58	0,4
Against Republicans	\$0		\$625,929		\$0	
For Democrats	\$2,428		\$105,607		\$13,228	
Total	\$2,428	91,9	\$731,536	33,3	\$13,228	99,5
Candidate	District 8		District 9		District 10	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican	\$93,186		\$11,183		\$19,911	
Democratic	\$27,790		\$47,216		\$2,438	
Total	\$120,976		\$58,399		\$22,349	
Against Democrats	\$0		\$37,234		\$0	
For Republicans	\$45,989		\$11,183		\$19,911	
Total	\$45,989	38	\$48,417	82,9	\$19,911	89
Against Republicans	\$47,197		\$0		\$0	
For Democrats	\$27,790		\$9,982		\$2,438	
Total	\$74,987	61,9	\$9,982	9,9	\$2,438	10,9

Table B3 Continued: Outside spending 2010

Candidate	District 11		District 12		District 13	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican			\$658,479		\$1,777,218	
Democratic	\$2,438		\$29,658		\$323,308	
Total	\$2,438		\$688,137		\$2,100,526	
Against Democrats	\$0		\$0		\$45,236	
For Republicans	\$0		\$602,529		\$40,163	
Total	\$0		\$602,529	87,5	\$85,399	4
Against republicans	\$0		\$55,950		\$1,737,055	
For Democrats	\$2,438		\$29,658		\$278,072	
Total	\$2,438	100	\$85,608	12,4	\$2,015,127	95,9
Candidate	District 15		District 16		District 17	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican	\$226,001		\$3,824,654		\$2,474	
Democratic	\$92,426		\$3,034,628		\$2,708	
Total	\$318,427		\$6,859,282		\$5,182	
Against Democrats	\$9,538		\$2,449,613		\$0	
For Republicans	\$185,888		\$157,053		\$2,474	
Total	\$195,426	61	\$2,606,666	38	\$2,474	47,7
Against Republicans	\$52,279		\$3,676,503		\$0	
For Democrats	\$94,104		\$593,917		\$2,708	
Total	\$146,383	45,9	\$4,270,420	62	\$2,708	52,2
Candidate	District 18		Amount	Percent	Amount	Percent
	Amount	Percent				
Republican	\$1,708,224					
Democratic	\$1,500,705					
Total	\$3,208,929					
Against Democrats	\$1,416,418					
For Republicans	\$155,203					
Total	\$1,571,621	48,9				
Against Republicans	\$1,553,021					
For Democrats	\$84,287					
Total	\$1,637,308	51				

Note! For district 3 data are not available as only the races where more than \$1000 were spent were listed.

Table B4: Outside spending in Ohio – 2008

	District 1		District 2		District 5	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican	-		-		\$82,497	
Republican	\$1,301,786		\$526,693		\$639,690	
Democrat	\$2,162,497		\$1,209,293		\$580,229	
Democrat	\$29,702		-		-	
Total	\$3,493,985		\$1,735,986		\$1,302,416	
Against Democrats	\$1,062,185		\$697,996		\$412,706	
For Republicans	\$153,219		\$115,294		\$217,458	
Total	\$1,215,404	34,7	\$813,290	46,8	\$630,164	48,3
Against Republicans	\$1,136,577		\$407,599		\$504,729	
For Democrats	\$1,116,911		\$507,497		\$88,206	
Total	\$2,253,488	64,4	\$915,096	52,7	\$592,935	45,5
	District 6		District 7		District 10	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican			\$93,563		\$112	
Democrat	\$3,917				\$47,552	
Total	\$3,917		\$93,563		\$47,664	
Against Democrats	\$0		\$0		\$0	
For Republicans	\$0		\$93,563		\$112	
Total	\$0		\$93,563	100	\$112	0,2
Against Republicans	\$0		\$0		\$0	
For Democrats	\$3,917		\$0		\$47,552	
Total	\$3,917	100	\$0		\$47,552	99,7
	District 11		District 14		District 15	
	Amount	Percent	Amount	Percent	Amount	Percent
Republican			\$45,131		\$2,930,585	
Republican					\$6,567	
Democrat	\$18,747				\$2,342,826	
Total	\$18,747		\$45,131		\$5,279,978	
Against Democrats	\$0		\$0		\$960,672	
For Republicans	\$0		\$131		\$199,476	
Total	\$0		\$45,131	100	\$1,160,148	21,9
Against Republicans	\$0		\$0		\$1,158,330	
For Democrats	\$18,747		\$0		\$1,193,088	
Total	\$18,747	100	\$0		\$2,351,418	44,5

Table B4 continued: Outside spending in Ohio – 2008

	District 16		District 18	
	Amount	Percent	Amount	Percent
Republican	\$2,314,546		\$13,661	
Republican	-		\$4,852	
Democrat	\$1,107,662		\$69,346	
Total	\$3,422,208		\$87,859	
Against Democrats	\$0		\$54,545	
For Republicans	\$141,975		\$18,513	
Total	\$141,975	4,1	\$73,058	83,1
Against Republicans	\$1,496,669		\$0	
For Democrats	\$1,098,760		\$14,801	
Total	\$2,595,429	75,8	\$14,801	16,8

Note! For district 3,4, 8, 9, 12, 13 and 17 data are unavailable for the same reason as above.

Table B5: Dark Money in 2012 Ohio House Elections

Race	Dark Money Total	Dark Money Democrats	Dark Money Republicans
House races			
District 1	\$0,00	\$0,00	\$0,00
District 2	\$0,00	\$0,00	\$0,00
District 3	\$0,00	\$0,00	\$0,00
District 4	\$0,00	\$0,00	\$0,00
District 5	\$0,00	\$0,00	\$0,00
District 6	\$3152541,71	\$0,00	\$3152541,71
District 7	\$0,00	\$0,00	\$0,00
District 8	\$0,00	\$0,00	\$0,00
District 11	\$0,00	\$0,00	\$0,00
District 12	\$0,00	\$0,00	\$0,00
District 13	\$0,00	\$0,00	\$0,00
District 14	\$0,00	\$0,00	\$0,00
District 15	\$0,00	\$0,00	\$0,00
District 16	\$125309,55	\$92118,17	\$33191,38
District 18	\$15000,00	\$0,00	\$15000,00
Senate race			
Ohio Senate race	\$13061222,93	\$292193,46	\$12769029,47